

Resolved, That the said M. E. O'Neill be furnished with a copy of this resolution and the Speaker be instructed to secure from the said M. E. O'Neill an affidavit setting forth the true facts as to his residence, and a statement from him as to his intentions to be present in the House in the future and represent the district from which he was elected.

The resolution was read second time.

On motion of Mr. Barnett, the resolution was referred to the Committee on Privileges, Suffrage and Elections.

ADJOURNMENT.

On motion of Mr. Anderson, the House, at 6:05 o'clock p. m., adjourned until 10 o'clock a. m. next Monday.

FOURTH DAY.

(Monday, February 24, 1930.)

The House met at 10 o'clock a. m., pursuant to adjournment and was called to order by Speaker Barron.

The roll was called, and the following members were present:

Mr. Speaker.	Heaton.
Acker.	Hefley.
Ackerman.	Hines.
Adkins.	Hogg.
Albritton.	Holder.
Allred.	Jenkins.
Baldwin.	Johnson
Barnett.	of Dallam.
Bateman.	Johnson
Beck.	of Dimmit.
Bond.	Johnson of Smith.
Bounds.	Johnson of Scurry.
Bradley.	Jones.
Carpenter.	Justiss.
Chastain.	Keeton.
Coltrin.	Keller.
Conway.	Kemble.
Cox of Lamar.	Kennedy.
Cox of Limestone.	Kenyon.
Davis.	King.
Duvall.	Kinnear.
Enderby.	Lee.
Farrar.	Lemens.
Finn.	Long of Houston.
Finlay.	Loy.
Forbes.	Magee.
Gilbert.	Mankin.
Giles.	Marks.
Graves	Mauritz.
of Williamson.	Maynard.
Graves of Erath.	McCombs.
Hardy.	McDonald.
Harding.	McGill.
Harman.	Mehl.
Harper.	Metcalf.
Harrison.	Moore.

Morse.
Mullally.
Negley.
Nicholson.
Olsen.
Palmer.
Patterson.
Pavlica.
Petsch.
Pool.
Prendergast.
Purl.
Quinn.
Ray.
Reader.
Renfro.
Richardson.
Riley.
Rogers.
Sanders.
Savage.
Shaver.
Shelton.

Simmons.
Sinks.
Snelgrove.
Stevenson.
Storey.
Tarwater.
Terrell.
Tillotson.
Turner.
Van Zandt.
Veatch.
Waddell.
Wallace.
Webb.
West.
Wiggs.
Williams
of Sabine.
Williams
of Travis.
Woodruff.
Young.

Absent.

Anderson.	Long of Wichita.
Brice.	Martin.
Brooks.	Murphy.
Dunlap.	O'Neill.
Eickenroht.	Pope of Jones.
Gates.	Pope of Nueces.
Hopkins.	Reid.
Hornaday.	Thompson.
Hubbard.	Warwick.
Kayton.	Westbrook.
Kincaid.	Williams
Land.	of Hardin.

Absent—Excused.

Avis.	Mosely.
Baker.	Rountree.
DeWolfe.	Sherrill.
Ewing.	Speck.
Fuchs.	Stephens.
McKean.	Strong.
Minor.	Walters.
Montgomery.	

A quorum was announced present.

Prayer was offered by Rev. B. B. Crimm.

LEAVES OF ABSENCE GRANTED.

The following members were granted leaves of absence on account of important business:

Mr. Montgomery for today and the balance of the week, on motion of Mr. Beck.

Mr. Mosely for today, on motion of Mr. Heaton.

Mr. Speck for today, on motion of Mr. Purl.

The following members were granted

leaves of absence on account of sickness:

Mr. Fuchs for today, on motion of Mr. Shelton.

Mr. Baker for today, on motion of Mr. Harper.

Mr. Williams of Hardin for today and the balance of the week, on motion of Mr. Quinn.

Mr. Minor for today and tomorrow, on motion of Mr. Sanders.

Mr. Rountree for today, on motion of Mr. Metcalfe.

Mr. Stephens for today, on motion of Mr. Heaton.

Mr. Walters was granted leave of absence for today on account of a death in his family.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time and referred to the appropriate committees, as follows:

By Mr. Hubbard and Mr. Graves of Williamson:

H. B. No. 19, A bill to be entitled "An Act amending Article 7060 of the Revised Civil Statutes of 1925, so as to increase the gross receipts taxes upon those engaged in owning, operating, managing or controlling any gas, electric light, electric power or waterworks, or water and light plant, within this State and charging for gas, electric lights, electric power or water, and levying said tax without regard to the population of the town or city in which same is operated, and declaring an emergency."

Referred to Committee on Revenue and Taxation.

By Mr. Walters:

H. B. No. 20, A bill to be entitled "An Act relating to the duties of the county board of trustees and the county superintendent of counties with an area of 977 square miles and a population of not less than 15,500 nor more than 15,600, according to the 1920 Federal census; authorizing the county board of trustees to rearrange and resubdivide all the territory of their respective counties into convenient school districts; making provision for the transportation of children; authorizing the appointment of the county superintendent by the county board of trustees, and determining the salary to be paid; authorizing the county board of trustees to make an assessment from all independent districts for the salary and expenses in the administration of the office of the county

superintendent, and declaring an emergency."

Referred to Committee on Education.

By Mr. Tillotson et al.:

H. B. No. 21, A bill to be entitled "An Act imposing an occupation tax on certain resources, including sulphur, gas, salt, coal, lignite and ores, marble, stone, gravel, sand, shells and other natural deposits, basing the same upon the amounts produced; fixing liability therefor; prescribing the method and manner of collecting and enforcing the payment of such tax, penalties and interest, and declaring an emergency."

Referred to Committee on Revenue and Taxation.

By Mr. McCombs:

H. B. No. 22, A bill to be entitled "An Act to exempt from taxation the property owned or used exclusively and reasonably necessary in conducting any association engaged in promoting the religious, educational and physical development of boys and girls, young men or young women, operating under a State or National organization of like character, and all endowment funds of such institutions, and declaring an emergency."

Referred to Committee on Revenue and Taxation.

APPOINTMENT OF PAGE ANNOUNCED.

The Speaker announced the appointment of Paul Christian as page to take the place of Harold Bray.

COMMITTEE OF THE WHOLE HOUSE.

On motion of Mr. Sanders, the House, at 10:10 o'clock a. m., resolved itself into a Committee of the Whole House for the purpose of hearing impeachment charges against the State Comptroller.

(In Committee of the Whole House, Mr. Barron in the chair.)

IN THE HOUSE.

(Mr. Chastain in the chair.)

Mr. Chastain, Acting Chairman of the Committee of the Whole House, reported to the House that the Committee desired to rise, report progress and ask leave of the House to sit again at 1:30 o'clock p. m. today.

The House adopted the report.

RECESS.

On motion of Mr. Johnson of Dim-

mit, the House at 11:50 o'clock a. m., took recess to 1:30 o'clock p. m. today.

AFTERNOON SESSION.

The House met at 1:30 o'clock p. m., and was called to order by the Speaker.

MESSAGE FROM THE GOVERNOR.

Mr. Pat Dougherty, secretary to the Governor, appeared at the bar of the House and, being duly announced, presented the following message from the Governor, which was read to the House, as follows:

Executive Office,
Austin, Texas, February 24, 1930.

To the Members of the Forty-first Legislature:

A bill was introduced at the last Special Session of the Legislature making some change in the law with reference to the Commission of Appeals of the Supreme Court. I understand that this bill has the endorsement of the Supreme Court and that it is desired to improve the working efficiency of the Commission. I submit for your consideration matters of judicial reform.

The board for the leasing of University lands is requesting that a change be made in the law creating this board and in providing for the disposition of lands belonging to the University of Texas. I submit for your consideration the amendment of the law creating the board for the leasing of University lands and the statutes pertaining to the disposition of properties belonging to the University of Texas.

Respectfully submitted,
(Signed) DAN MOODY.

COMMITTEE OF THE WHOLE HOUSE.

On motion of Mr. Johnson of Dimmit, the House, at 1:35 o'clock p. m., resolved itself into a Committee of the Whole

House for the purpose of hearing impeachment charges against the State Comptroller.

(In Committee of the Whole House, Mr. Barron in the chair.)

IN THE HOUSE.

(Mr. Barron in the chair.)

Mr. Barron, Chairman of the Committee of the Whole House, reported to the House that the Committee, at 5:15 o'clock p. m., desired to rise, report progress and ask leave of the House to sit again at 9 o'clock a. m. tomorrow.

The House adopted the report.

EXPRESSING APPRECIATION FOR FLORAL OFFERINGS.

The Speaker laid before the House and had read the following communication:

We wish to express our deep appreciation for the beautiful floral offering and for the resolution of respect adopted by your honorable body at the passing of our beloved father, D. S. McMillin.

Sincerely,
J. M. McMILLIN,
J. C. McMILLIN,
J. T. McMILLIN,
MRS. H. T. ARTERBERRY.

RELATING TO SUSPENDING CERTAIN HOUSE RULE.

Mr. Young moved that the House Rule which relates to the consideration of resolutions be suspended at this time.

The roll of the House was called, and the vote announced as follows: Yeas 57, nays 34.

Mr. Morse raised the point of order that there was not a quorum present.

The Speaker sustained the point of order.

ADJOURNMENT.

On motion of Mr. Van Zandt, the House, at 5:25 o'clock p. m., adjourned until 9:30 o'clock a. m. tomorrow.

In Memory
of
Hon. James M. Perdue

Mr. Adkins offered the following resolution:

Whereas, Our Heavenly Father, in His supreme wisdom and mercy, has, on October 7, 1929, called from earthly existence Hon. James M. Perdue; and

Whereas, He served with distinction and honor in the House of Representatives of the Thirty-eighth and Thirty-ninth Legislatures, representing the Fourth Legislative District of Texas, composed of Upshur and Camp counties; and

Whereas, He came from Alabama to Texas when a young man and was one of the pioneer educators of Upshur county and East Texas, having taught school nearly fifty years in Upshur county and rated by many prominent men, whom he educated, as being among the best in the State; and

Whereas, He was greatly interested in the development and progress of scientific farming and animal husbandry, having given a great part of his life to a study of these; and

Whereas, He was a man of deep and sincere convictions, always aggressive in fighting for the things he knew to be right, always active in the duties of citizenship, always loyal to his friends, faithful to his God, and a kind and loving father and husband; therefore, be it

Resolved, That we, the signers of this resolution, who knew him as a citizen and who served with him as an official, request that a page of the House Journal be set aside to the memory of the deceased, and that when the House of Representatives adjourns at the close of its labors on this day that it do so in the memory of and respect of him; and be it further

Resolved, That an enrolled copy of this resolution, signed by the Speaker and Chief Clerk, be mailed to his bereaved family.

Signed—Adkins, Pope of Jones, Van Zandt, Storey, Bateman, Carpenter, Graves of Erath, Simmons, Cox of Lamar, Wallace, Petsch, Forbes, Sinks, Young, Purl, Snelgrove, Davis, Williams of Travis, Pool, Farrar, McGill.

The resolution was read second time, and was adopted by a rising vote.

APPENDIX.

PROCEEDINGS IN INVESTIGATION
OF CHARGES FILED AGAINST S.
H. TERRELL, COMPTROLLER.

SATURDAY, FEBRUARY 22, 1930.

Morning Session.

Pursuant to recess of the Committee of the Whole, at 12:05 p. m. Thursday, February 20, the Committee of the Whole reconvened at 10:10 a. m., Saturday, February 22, 1930.

The Speaker: The House will be in order—

Mr. Barnett: Mr. Speaker, I move that the House resolve itself into a Committee of the Whole for the purpose of hearing the impeachment proceedings—

The Speaker: You have heard the motion of the Gentleman from Hunt. Those who favor the motion will say "aye" and those who are opposed will say "no."

Whereupon the Speaker announced, "The ayes have it."

The Chairman: The Committee will please be in order.

Mr. Petsch: We have one witness here that we would like to put on, with the consent of the attorneys for the respondent, who has been here a long time, and it will only take a few minutes to get through with him—Mr. Rucker lives quite a way from here and is very anxious to return to his home.

Whereupon the Chairman called Mr. Rucker.

The Chairman: The Chair has been requested to make this announcement: Some of the members who do not have seats close to the stand here have, thoughtlessly, been occupying the seats of those members whose desks have been assigned close to the stand. If those members are absent or excused, then it is all right for other members to occupy those seats nearer the witness stand, and it will be perfectly all right for you to come up closer, but please do not occupy the seats of other members who are present—it is sometimes embarrassing.

Whereupon W. C. Rucker, a witness for the House, being duly sworn by the Chairman, took the stand and testified as follows on

Direct Examination.

By Mr. McGill:

Q. Please state your name to the Committee.

A. W. C. Rucker.

Q. What is your occupation, Mr. Rucker?

A. Abstracting and tax man.

Q. Where do you live?

A. San Antonio, Bexar county, Texas.

Q. Who are you now working for?

A. L. W. Steering.

Q. Were you ever employed by the Texas Tax Company?

A. Yes, sir.

Q. During what time did you work for the Texas Tax Company?

A. From about the 6th of January, 1929, until the last day of March, 1929.

Q. Who employed you for that service?

A. Mr. A. P. Bagby. He came to see me the latter part of December, 1928, and talked to me about accepting the position, and told me that he would take the matter up with Mr. Martin and let me know whether they would desire to give me the employment.

Q. What was to be the nature of your employment?

A. To work in the delinquent tax record department. I was supposed to do everything around the office.

Q. Well, you did, then, enter into the employment of the Texas Tax Record Company?

A. I did.

Q. Where did you begin your duties under that employment?

A. In Sinton, Texas.

Q. What did you do—what were your duties?

A. Well, I compiled the delinquent list, issued delinquent tax or delinquent receipts, and did the general work in the office, wrote letters about delinquent taxes, and was to make a report at the end of the month to Mr. Bagby.

Q. When Mr. Bagby spoke to you about employing you, did he tell you who he was employing you for?

A. He said that I was to be employed by the corporation.

Q. You mean by that the Texas Tax Record Company?

A. Yes, sir.

Q. Did he tell you whether or not he would have to consult with anyone else before you were employed?

A. He did.

Q. Whom did he say that he would have to consult, if anyone?

A. He said that Mr. Martin was present in an automobile, and was at that time the chief auditor in the Comptroller's office—that he was the chief auditor or something like that, and the other was Mrs. Terrell, the wife of the Comptroller.

Q. You never had any dealing with Mr. Martin about your employment at that time?

A. Yes, sir. He said that Mr. Martin happened to be with him at the time and went out and spoke to him and he said that he thought that it would be preferable to return to Austin and report to the others and would let me hear from them by the end of the week.

Q. What was your contract of employment—how much were you to be paid for your services?

A. He asked me if it would be agreeable for me to start on one hundred and fifty dollars per month, to be paid monthly—

Q. To be paid monthly?

A. — and I told them that I would prefer it to be paid semi-monthly.

Q. Did you receive semi-monthly payments during the time of your employment?

A. I did.

Q. Well, how was that paid to you?

A. Well, after we went down there—I went down there I think on the 6th of January, and I was paid in cash for the balance of the month, and after that I received checks semi-monthly for \$83.33.

Q. Who were the checks signed by—who did you receive the cash from?

A. Mr. Bagby.

Q. Who did you receive the checks from, and who were they signed by?

A. I think the first one was signed by E. J. Martin, Secretary and Treasurer, and either the third or the fourth was signed by S. H. Terrell, but I do not know whether there was anything else on the check or not— It seems to me that it was signed "special."

Q. You say that several of the checks were signed by E. J. Martin, Secretary and Treasurer?

A. Secretary and Treasurer of the Texas Tax Record Company.

Q. Do you recall on what bank they were drawn?

A. I am not sure, but I think that it was the American National Bank.

Q. And one or two of them was signed by S. H. Terrell?

A. I will not be positive about that, but I think it was signed S. H. Terrell, Special.

Q. How many of those checks did you receive?

A. You mean how many checks?

Q. How many checks signed by Mr. Terrell?

A. I do not recall whether it was more than one or not. The only time

that I recall that I got a check signed by Mr. Terrell was when I first went down to Sinton. I was a stranger there and had no banking connections so I called on the Mr. Parks and got him to endorse the check. The collector Mr. Parks said that he would know the signature anywhere and he endorsed the check and I took it to the bank and got it cashed. When I went into Mr. Parks' office with this particular check, signed by S. H. Terrell, he readily endorsed the check and I took it to the bank and got the money on it.

Q. How long did you continue in the employ of that company?

A. Just three months.

Mr. McGill: I believe that is all—

The Chairman: Mr. McGregor, do you desire to examine the witness?

Mr. McGregor: No questions—

Whereupon the witness was excused.

Moore Lynn, a witness in behalf of the House of Representatives, being recalled and further cross examined, testified as follows:

By Mr. McGregor:

Q. Mr. Lynn, in cross examining you the other day, I asked you if an account of the Comptroller were presented to the Treasurer and approved by the Secretary of State, if that account should be paid. You answered that that involved a legal question you would have to refer to the Attorney General. What is the style of the position you hold, what is its official name?

A. State Auditor and Efficiency Expert.

Q. What does auditor mean as used in that bill?

A. I suppose it means about the same there as it means anywhere else, to examine accounts and obtain information therefrom.

Q. And verify the account. Isn't it a condition of that position that the auditor shall have sufficient legal knowledge to pass on the liability of the State on an account or for an account?

A. Any certified public accountant is required to pass an examination on commercial law. I passed that examination when I obtained my certificate, but as a State officer I must look to the Attorney General for opinions and his interpretation of the law.

Q. You are a State officer yourself?

A. Yes, sir.

Q. One is created by statute and the other by the Constitution?

A. Yes, sir.

Q. The powers of both are fixed by statute, are they not?

A. Yes, sir.

Q. Your profession requires that you have this knowledge of the law?

A. Requires I shall have certain knowledge of the law, especially commercial law.

Q. That is all right, just answer my questions, and let's get this record down.

Mr. Petsch; Now, Mr. Chairman, we insist that the witness has not done anything on earth except to answer the Senator's question, and we make the objection to the Senator's continual interruption of the witness in answering questions.

Judge Sinks: Go ahead and let him answer straight through, and then we will get through quicker.

Mr. McGregor: I thank the Judge for pacifying the situation.

Q. If you were to see an account in auditing the Attorney General's department for \$100.00 worth of law books, it would not especially attract your attention, would it; it would not especially attract your attention?

A. It would be a very natural thing to see.

Q. If you had no question about it, you would simply look to the appropriation bill to see if the funds were provided for it?

A. That is right.

Q. If you were to see where the Attorney General had bought three bushels of potatoes and paid three dollars a bushel, it would attract your attention, wouldn't it?

A. I expect it would.

Q. Then after looking at the appropriation bill, if there were no appropriation for potatoes, you would disallow the account?

A. I don't know that I could allow or disallow any account.

Q. Would disapprove the account?

A. I would question it seriously, to say the least.

Q. You would not authorize its payment?

A. I do not have any authority to authorize payment for anything except in my own department.

Q. Would you permit an account of that character to go through unquestioned, and you an auditor of a great State?

A. It would have already gone through when I would see it. I would question it when I came to it, if that is what you mean.

Q. Now if you saw a warrant in the Treasurer's office to be paid to the Attorney General, and that warrant was

not signed by the Comptroller, would you investigate that?

A. Warrant to be paid to the Attorney General, not signed by the Comptroller?

Q. Warrant to be paid to the Attorney General, not signed by the Comptroller?

A. I believe that would be worthy of investigation, yes, sir.

Q. Then if you saw a warrant or an account in the Treasurer's office that was not approved by the Secretary of State, would you investigate that?

A. I would be investigating all the Comptroller's accounts that were there if I investigated those.

Q. Then it would not be a legal question that would cause you to refer it to the Attorney General; you know enough law to do that yourself?

A. Just what is your question again now?

Q. Well, I think the first answer is all right. The act under which your office was created by the Forty-first Legislature at its First Called Session, is that right?

A. I do not recall just which session, or which page the act creating it is on. I am sure you can locate it there in the law book.

Mr. McGregor: Mr. Chairman, I would like to have the Clerk read Sections 4, 6 and 7, pages 134, 135 and 136, parts of them, of the laws of the First Called Session of the Forty-first Legislature.

The Chairman: The Clerk will read the portions asked for.

The Reading Clerk thereupon read the sections of the law asked for, as follows:

Sec. 4. In addition to the other duties provided for said Auditor, he shall thoroughly examine all departments of the State government with special regard to the activities and the duplication of efforts between departments and the efficiency of the subordinate employes in each of such several departments of the State government.

Upon completing the examination of any department he shall furnish the head of said department with a report on (a) the efficiency of the subordinate employes; (b) the status and condition of all public funds in charge of said department; (c) the amount of duplication of work done by the department so examined and other departments of the State government; (d) such a system of auditing bookkeeping, and system of accounts as will provide for a uniform system of auditing, bookkeep-

ing and a system of accounts for every department of State. He shall also make recommendations of the said head of the departments for the elimination of duplication and inefficiency. A copy of each such report submitted by said Auditor to the head of the department shall be forthwith submitted to the Governor, the Speaker of the House, and the President of the Senate. Nothing contained herein shall be construed as authorizing the State Auditor to employ or discharge any State employe other than those herein authorized to be employed by him for his department.

Sec. 6. Assistants.—In the event said Auditor shall find it necessary to have assistance in the discharge of the duties herein imposed upon him, he may apply to the Governor for such assistance and the Governor is hereby authorized, in his discretion, to appoint such assistant or assistants, including stenographic and clerical assistance, as he may consider necessary in order to accomplish the purposes of this act.

Sec. 7. Compensation and Removal.—The said Auditor shall devote his entire time to the discharge of the duties herein imposed upon him, shall maintain his office in the Capitol, and the Board of Control is directed to furnish suitable quarters, supplies and stationery for said Auditor, and said Auditor shall receive for his services not to exceed the sum of seven thousand five hundred dollars (\$7,500) per annum, and necessary traveling expenses, payable monthly in the same manner as other State officials are paid; and in the event of the appointment of an assistant or assistants, he or they shall each be paid not to exceed the sum of four thousand two hundred dollars (\$4,200) per annum, payable monthly in the same manner as other State officials are paid, all salaries to be paid in the discretion of the appointing power, including compensation of stenographic and clerical assistance, subject only to the limitation herein imposed. Said Auditor or any assistant or employe under this act may be removed or discharged at any time by the appointing power and their respective positions filled by other appointments.

Q. I will ask you to examine that copy of a letter and state if you got the original to that?

A. I don't know that we have it here. I have received that letter.

Q. Examine this original letter and state if you wrote that letter, if that is your signature?

A. Yes, I wrote that letter; that is my signature.

Q. The original, a copy of which I show you, is in your possession?

A. Yes, sir.

Mr. McGregor: I will now read the copy.

Mr. Petsch: I object to the introduction to the copy of the letter and the introduction of the letter which Mr. Lynn wrote on account of the fact that it deals solely with information pertaining to the salary which Mr. Lynn was drawing as State Auditor, and the salary that the assistants were drawing, and the salaries that help was drawing, and it throws no light upon any issue in this case, is wholly irrelevant and immaterial, and cannot be offered for any purpose at all except for the purpose of delaying and for the purpose of throwing suspicion or prejudice upon matters which have no bearing in this case.

In view of the fact, Mr. Arbitrator, that some of the House want to hear it, I withdraw the objection. I want to say in addition that if that is introduced we want to reserve the right to show that the salaries, as they are paid, are paid upon the authorization and upon advice from the Attorney General's Department, that they had a right to pay those salaries. If this is admitted, we want to have a right to introduce those facts also.

Mr. McGregor: Mr. Chairman, I would like to state that this record discloses that this respondent has not made an objection, a suggestion nor a protest against any act that has been taken or proposed to be taken by this Committee. So far as we are concerned, the doors are wide open. Let the sky be the limit.

This letter reads as follows:

Comptroller's Department,
State of Texas.
Austin.

S. H. Terrell, Comptroller.
J. M. Edwards, Chief Clerk.

January 16, 1930.

Hon. Moore Lynn, State Auditor,
Capitol.

Dear Sir: Will you please furnish me, at your earliest convenience, copies of your contracts with assistants and expert employes, covering salaries and expenses, to file with the records of this Department, also a complete list of all employes not under contract, giving salaries and any other information as you may care to file?

Yours very truly,

.....
Comptroller of Public Accounts.
KR/lr

Mr. McGregor: The original letter in reply to this copy, on the stationery of the State Auditor and Efficiency Expert, dated January 20, 1930, is as follows:

Office of State Auditor and Efficiency Expert, State of Texas.
Austin.

Moore Lynn, Acting State Auditor.
W. F. Carter, Jr., Assistant Auditor.
Mrs. O. P. Smith, Secretary.

January 20, 1930.

Hon. S. H. Terrell, Comptroller of Public Accounts, Austin, Texas.

Dear Sir: Replying to your letter of 16th inst. with reference to contracts with assistants and employes in this Department, the following information is furnished:

Name—Position.	Annual Salary.
Moore Lynn, State Auditor and Efficiency Expert	\$7,500.00
W. F. Carter, Jr., Assistant State Auditor	3,900.00
Mrs. O. P. Smith, secretary	1,500.00

In addition, Mr. George Armistead and Mr. Charles N. McClendon of Georg Armistead & Co., Houston, Texas, and Mr. Paul D. Banning, Washington, D. C., are acting as consultants for this Department. Their charges are \$25.00 per day and expenses. The contract with George Armistead & Co. was made orally in my presence. There is no written contract in this case, to my knowledge. The arrangements for Mr. Banning's employment were made by Governor Moody, as I understand, by telegraph and letter. I have no record in regard to this matter, but Governor Moody instructed me that Mr. Banning's compensation was to be as stated above.

Mrs. M. M. Johnson is doing extra work typing in the office at \$5.00 per day. Her employment is purely temporary, and she may be released at any time.

Yours truly,

MOORE LYNN,

ML:S

State Auditor.

Q. Is Mr. Banning a certified public accountant?

A. Yes, sir; he is a certified public accountant in Tennessee and Indiana.

Q. Is he in Texas?

A. No, sir.

Q. Where does he live?

A. Washington, D. C.

Q. Do his expenses include his transportation from Washington, D. C., to Texas?

A. Yes, sir.

Q. Is he here now?

A. He is.

Q. Is his employment definite or indefinite as to time?

A. Indefinite, I should judge you would say. There is no specified time as far as I know. I did not make the contract, you understand.

Q. George Armistead & Co. Is George Armistead himself employed?

A. Yes, sir.

Q. On the same salary, \$25.00 per day?

A. Yes, sir, and expenses.

Q. Is he a certified accountant?

A. Yes, sir.

Q. Is Mr. McClendon a certified public accountant?

A. No.

Q. Is he getting \$25.00 a day?

A. Yes, sir.

Q. Is he the same McClendon that worked for the Comptroller's Department before Mr. Terrell went in, on statutory salary?

A. Yes, sir.

Q. He is not considered, then, as an expert?

A. Yes, sir. A man might be an expert without being a certified public accountant.

Q. I mean under the law.

A. I don't know that the law fixes anybody as experts.

Q. He is not licensed as a certified public accountant?

A. He is not a certified public accountant.

Q. That is the question.

A. He is not; no, sir.

Q. How long has he been here in Austin with you?

A. I do not recall just how long; since some time before the first of the year, and most of the time since that time.

Q. He has assisted you materially in the preparation of these various reports, has he not?

A. He has assisted me materially in gathering the facts and making a survey of the Department and preparing the reports.

Q. You had just as well answer the question. I am going to keep on asking it until I get an answer. He has assisted you materially in the preparation of these reports, in the preparation of this report, as to verbiage, how it should be worded?

A. We have—

Q. Has he not assisted you?

A. He has assisted me.

Q. Now, I will ask you if your re-

port to the Governor is not a rehash of an article that appeared under the name of Armistead & Co. and that it was written by Mr. McClendon in 1927, in the press of the State?

A. No, sir, it is not.

Q. You have read that article, have you not?

A. I have not read that, but I know it is not a rehash of that. I wrote too much of it by myself for it to be that.

Q. Speaking of Mr. McClendon, he is in the hall; he is here now, is he?

A. Yes, sir; was a moment ago.

Q. I will ask you to read that instrument and state if you ever saw it before?

A. Yes, sir, I saw it.

Q. I will ask you to read this instrument and state if you ever saw it before?

A. Yes, sir.

Mr. McGregor: It is as follows:

Austin, Texas, February 21, 1930.

To the Press:

The attached memorandum was today delivered to the State Auditor by Mr. Charles N. McClendon, one of the Auditors in this Department.

MOORE LYNN,

State Auditor.

Office Memorandum.
State Auditor's Office.

February 20, 1930.

My room at a local hotel has been kept carefully locked since I have been in Austin, as I have had some important working papers and memoranda in the room. During the last few days I have been using a special keyhole lock that would prevent even employees of the hotel from going into this room except with my knowledge and in my presence. The servitor has been kept carefully locked from the inside and the transom has been raised and fastened whenever it was necessary to leave the room.

On February 20, 1930, about 1 p. m., I was in my room and, upon leaving it, took the usual precaution to see that the room was securely closed as above stated.

When I returned to my room about 7 p. m. on the 20th, my attention was attracted to the fact that after unlocking the door I had difficulty in opening it. The reason that I could not open it readily was that the transom had been forced open and had fallen inside the room and was caught against the door.

An examination of my working papers and personal letter files shows that they were disarranged and certain

documents are missing therefrom. I have not completed a check of all my memoranda but have determined that certain of it is missing.

I immediately notified the management of the hotel of this occurrence and they have taken it up with proper authorities.

CHARLES N. McCLENDON.

Q. Did you write that?

A. Yes, sir.

Q. Did it have this article attached?

A. Yes, sir.

Q. What was your purpose in writing that letter?

A. I wanted the press to have the facts.

Q. Now, you gave that document to the press of this State?

A. Yes, sir.

Q. With this hearing here pending in process of development?

A. I did.

Q. And your purpose in doing so was to reflect on this respondent and those associated with him, wasn't it?

A. No, sir.

Q. What was your purpose?

A. My purpose was to give the facts to the public, and let them draw their conclusions.

Q. Give them to who?

A. To the people of the State.

Q. What kind of conclusion did you want them to draw?

A. Such as would naturally be drawn from that, that it was some one interested in what Mr. McClendon had.

Q. Somebody connected with this respondent?

A. I am not going to pass that opinion.

Q. Do you think anybody connected with this matter was connected with the burglary?

A. I am not going to state.

Q. Isn't that burglary an entire fabrication?

A. It is not.

Q. A falsehood, entirely without basis in facts?

A. No, it is not.

Q. You were interviewed afterwards and you stated that you had lost nothing that you could not replace?

A. I was not interviewed. I passed that to the press.

Q. Isn't it published in their papers that you had duplicates of the papers that were lost?

A. I don't even know what papers were lost, but we are fairly sure no important papers were lost.

Q. Did he have any original papers there from any of these departments?

A. I do not really know what was lost. It is not my room we are talking about.

Mr. McCombs of Dallas: Mr. Chairman.

The Chairman: The gentleman from Dallas.

Mr. McCombs of Dallas: It appears to me that this type of examination is ill-tempered and ill-advised, and that it has not got a thing to do with the guilt or innocence of Mr. Terrell.

Mr. McGregor: Did you ever try to examine a witness over a telephone?

Mr. McCombs of Dallas: It is pretty hard.

Mr. McGregor: Don't mistake animation for anger.

Mr. McCombs of Dallas: I am not particularly concerned about the manner of examination. It is the substance.

Mr. McGregor: I think we are entitled to show who got his papers.

The Chairman: I think, under our rule, that should be passed on by the presiding judge of the House.

Mr. McGregor: All right, I am through with that.

The Chairman: Let the committee be in order, please. When any interruption occurs, several people start talking, and we have to hold up the proceedings for several minutes.

Mr. McGill: In behalf of the attorneys for the House, I want to state that we realize the immateriality of this testimony, but we have decided to let the Senator go just as far as he wants to, and not object.

The Chairman: The committee will be in order, please.

Mr. McGregor: Will I be permitted to acknowledge that these gentlemen have changed their course?

Mr. Petsch: I want to state that letting them go as far as they want to does not meet with my individual approval, because I think they ought to stay within the confines of reason and that the cross examination should be limited to matters which throw light on the issues in the case.

Mr. McGregor: We will throw light if men can see.

Mr. Petsch: I said on the issues in the case, Senator.

Q. On January 27, you communicated with the Governor about this matter?

A. Which matter?

Q. This entire audit, your position. That is the only matter.

A. I thought you were talking about the case being placed before the press awhile ago.

Q. Oh, no. That is the date of your communication to the Governor?

A. That is the first report I wrote to the Governor, to the Legislature.

Q. Now, referring to the Auditor's bill, you make this statement: "The purpose of the legislation is twofold: first, the protection of public funds; and, second, the introduction of sound business principles in State activities." The first really embraces the last and is an admirable statement of the proposition, that the purpose is to protect State funds.

A. I think that is fair.

Q. I think we agree on that. I will ask you if you did not use this language in that report, page 77 of the House Journal: "The system provided by law for safeguarding the State's funds has completely failed to obtain its purpose, not through any apparent fault of the statutes, but simply through the failure of both the Treasurer and the Comptroller to comply with the plain provisions of the law." That is in the article, isn't it?

A. Yes, that sounds familiar.

Q. Now you stated in your original cross examination here the other day that you had not made a complete audit of the Comptroller's Department?

A. That is true.

Q. Not having made it, then you could not give it to the Comptroller, as provided in this act?

A. Could not give what to the Comptroller?

Q. The report of the examination. The law reads this way: "Upon completing the examination of any department, he shall furnish the head of such department with a report on the efficiency," etc. Not having made a complete report, you, of course, could not furnish it to him?

A. Not having completed the report. This report that was delivered covered the Comptroller's Department and part of others, and the heads of the departments involved were furnished a report, just the same as given to the Governor and the Legislature.

Q. You just haven't made a complete report?

A. The report was incomplete and so stated.

Q. Now, in this same report to the Governor, didn't you use this language: "In fairness to the present Treasurer and the present Comptroller, it must be stated that the situation appears not to be of recent origin. Each officer, however, has had five years to do his part in correcting the situation." You made that statement in that report?

A. That is right.

Mr. McGregor: And we offer it in this regard.

Q. Now, what is meant by the term "general revenue" as used in this report and in that connection?

A. Well, there is a fund that is called general revenue fund, and that is the fund that we are talking about.

Q. So designated by statute?

A. So designated, and it is on the books of the Comptroller and the books of the Treasurer as general revenue fund.

Q. And in this same report is this language: "On August 31, 1928, the net cash balance in the general revenue fund alone, as disclosed by the Treasurer's records, was in round numbers \$437,000.00 in excess of that shown by the Comptroller's books; on September 30, 1929, the difference had increased to \$587,000.00; and by November 30, 1929, the difference had reached \$739,000.00." Is that correct?

A. According to my recollection, those are the figures.

Q. And this: "The Treasurer receives and relinquishes millions of dollars in cash and securities, each year, of which the Comptroller has no record or knowledge. The Treasurer pays out large sums from the Land Office 'suspense' account solely on the authority of the Land Commissioner, the Comptroller's approval, in some cases, being obtained long after the disbursements have been made." That is in there?

A. That is right.

Q. "Briefly speaking, the system of safeguards provided by law has failed, since neither the Treasurer nor the Comptroller have followed the law. Consequently, neither officer is in a position to give the Governor, the Legislature, or the general public an accurate and intelligible statement of the financial condition at any give date, or of the transactions for any given period." That is in there?

A. That is right.

Q. Now then, you and Mr. Phillips, from audit obtained in the Comptroller's office, reached an agreement that there was a deficiency in the Comptroller's Department. Now you and Mr. Phillips obtained the audit from the Comptroller's Department, and after completing it, you agreed that there was a deficiency in that department of \$12,289.19. You are in accord on that?

A. There is some more that Mr. Phillips does not refer to, a deficiency of \$5,883.00. There were some other

items that Mr. Phillips did not take into consideration.

Q. You all agreed on that, you and Mr. Phillips agreed?

A. As far as Mr. Phillips went.

Q. How much did you take into consideration that he did not?

A. I took in two \$600.00 postage warrants that he did not have.

Q. Then, with the exception of about \$1,300.00, you and he agreed?

A. There were those items amounting to \$5,883.00.

Q. Every man understands those two items of inheritance tax. With those paid, you and Mr. Phillips are in accord, excluding the \$1,200.00 postage, that the deficiency is \$12,289.19?

A. Some minor differences.

Q. Point out the minor differences.

A. There is \$90.00 Mr. Phillips does not take into consideration, a \$90.00 shortage. A \$15.00 offset was tentatively allowed to that amount.

Q. Mr. Phillips fixed it at \$12,289.19, and you fixed it at that amount, plus \$75.00, is that right?

A. Plus some other differences I spoke of.

Q. That you have just mentioned. I just want to reach the point that there was a difference of \$75.00, as shown by certain items?

A. At least, our differences can be reconciled. We know what our differences are, and we can reach a conclusion.

Q. Mr. Phillips finds there is a deficiency of \$12,289.19, and you find it plus \$90.00, less \$15.00, don't you?

A. Plus other amounts we are talking about.

Q. What other amount?

A. \$5,883.00.

Q. That has been accounted for. I am talking about what he owes the State now.

A. Do you consider when a man takes anything and puts it, he is accounting for it?

Q. I can't see it any other way. Of course, I am not an auditor.

A. I am not any kind of a lawyer.

Q. It is a mystery to me. Now, in Subdivision 5 of your report to the Governor, you used this language: "Suggestions of a way to immediately begin corrections. Repeatedly, for more than twenty years, have defects in the accounting system been reported to the Legislature, sometimes by its committees and sometimes by investigators employed by it. Nearly every report, including this one, points out many of

the same defects." That is that paragraph?

A. Yes, that is right.

Q. "In 1909 and 1910, immediately following one of the investigations, many of the laws relating to the fiscal matters of the State were rewritten with a view of correcting evils then existing. The laws passed at that time have been largely ignored and the accounting controls and safeguards intended to be established by the statutes have never become effective.

"Before the end of 1930 the principal defects can be overcome without cost to the State. To accomplish this, the Legislature need only supply an amount probably less than the expense of one of the often repeated accounting investigations. Through the judicious use of such a fund, many of the evils heretofore mentioned in this report can be corrected and, in addition, savings will be effected far exceeding the initial outlay. The means of effecting these economies will be pointed out in detail further on in this report." That is correct, isn't it?

A. Yes.

Q. Now, you contemplated that any appropriation based upon that suggestion should be administered through your Department, didn't you?

A. Yes, sir.

Q. "In order that all needed improvements to make the laws operative may be effected in a manner that will co-ordinate the work in the different departments and prevent unnecessary duplications, it is believed, should such an appropriation be provided, it should be spent at the direction of the Governor in the manner, and in the particular departments to be recommended by the State Auditor. The money would be used to make the laws effective and actual expenditures would include, among other things, the designing and printing of new forms." That is correct, isn't it?

A. Yes.

Q. "Supplying such new equipment as would be needed." What do you mean by equipment?

A. Various kinds of accounting machines, either to be bought or leased.

Q. Adding machines?

A. There might be some adding machines in it.

Q. What kind are they?

A. Various kinds of accounting machines; might include various kinds of machines, bookkeeping machines, tabulating machines.

Q. Are those machines leased or bought by the State?

A. Some are leased, or would be

leased, and some would be bought, if they are supplied at all.

Q. Are any used in any of the departments in the State now?

A. If you mean adding machines, I suppose every department uses adding machines.

Q. Are there any leased machines in any of the departments?

A. The Highway Department has some, and the Comptroller's Department recently installed some of these machines.

Q. Are they leased or bought?

A. It is my understanding they cannot be bought.

Q. Are they leased or bought?

A. It is my understanding that they cannot be bought.

Q. Patent rights. And they are not leased, then?

A. Something of that kind.

Q. Isn't it a fact that Mr. McLendon, your subordinate, represented these machine companies where these contracts were made?

A. I have no reason to believe that is the truth; I think that—

Q. I don't know; I am just asking the question?

A. Have you reason to believe it yourself? I have none.

Q. Well, I wouldn't have asked the question if I hadn't hoped to develop the facts.

A. I have no reason to believe that, and every reason to believe that is not true. I have some reason—

Q. Well, he is here, he is here. Is he going to be a witness in this case?

A. I don't know.

Q. Now, you say in this report to have additional salaries for persons who install new records in the departments. Do you contemplate to change the system entirely and add new records?

A. If you mean a new form of records, yes, that would add. Probably there would be no essential records except those just called for by the statute, to be added; some are called for by the statute that are not now kept; these, of course, should be added. And the form of many other records would probably be changed.

Q. But as to having persons to install new records and instruct the regular employees in the office in their duties, that would mean experts would have to do that, of course?

A. Well, it is my understanding they wouldn't have to be highly technical experts to install these.

Q. I didn't say that. After it is in-

stalled, you said they have to be instructed?

A. That is right.

Mr. Petsch: Mr. Chairman.

The Chairman: Mr. Petsch.

Mr. Petsch: I hate to be continuously objecting, but I cannot see any character of materiality in this question to any issue in this case; and if there is, or if I cannot discern the object that they propose to accomplish, it might be expedited possibly, and I am sure it would expedite it as far as the membership of the House is concerned, if we would be permitted to know what they are endeavoring to accomplish, what is the object of all these details pertaining to the duties of the Auditor's Department and the character of its employees. Neither the Auditor nor any of his employees are on trial here, there are no charges against them. If they have done anything irregular and improper, they ought to be discharged or be fired. But that matter has no materiality to this proceeding.

Mr. McGregor: Mr. Chairman, we don't think we ought to be punished because the gentleman from Gillespie is not only peculiarly, but perpetually, blind when it comes to seeing things that are of benefit to the other fellow—

Mr. Petsch: Now, if your Honor please, I want to say that the last objection I made was made upon the insistence of quite a number of the members of this House. But I could go on and state to you in detail why I object, but I want to be fair.

Judge Sinks: I don't know what is the real question.

Mr. McGregor: There is nothing before the house, Judge.

Mr. Petsch: What did you say, Judge?

Judge Sinks: Well, I just said that I didn't understand what the question was; I wasn't paying much attention. Was it just in reference to the duties of the Auditor, was that what he was after?

Mr. Petsch: My objection, if your Honor please, has been to the character of the examination that has been conducted for some ten or fifteen minutes, of which we fail to see the relevancy or materiality, and a great number of the members here fail to see it, and that is the reason I am now objecting. I am objecting to the question because I couldn't see the materiality, and now am objecting in behalf of these members, who are getting impatient.

Judge Sinks: I think counsel should

get through with it. Are you about through with that?

Mr. McGregor: I have finished that branch of it, your Honor.

Judge Sinks: Well, if you have finished it, all right.

Mr. McGregor: That particular branch.

Q. Mr. Lynn, can you analyze that deficiency of \$12,289.19 and tell where it came from?

A. Hasn't that already been stated before here?

Q. It doesn't make any difference; you state it again. I don't think it has.

A. I would prefer to analyze the deficiency as shown by my own working papers and my own report, rather than that shown by some other auditor.

Q. All right, let's get the items, let's get a piece of paper so we can put them down separately.

Mr. McGill: What item are you inquiring about, Mr. McGregor?

Mr. McGregor: I haven't asked yet, Mr. McGill. The deficiency item; I want him to analyze it.

Q. Now, Mr. Lynn, I will help you all I can—you had better watch me, because I watch you all the time.

A. All right.

Q. I will ask you if there is an item in that deficiency of \$12,289.19, of \$337.50 unaccounted for?

A. Yes, sir.

Q. Would you mind taking a piece of paper and adding this up, now? I will help you correct any mistakes you may make.

A. What do you want me to put down—mistakes in life?

Q. Well, yes. \$337.50 came from the 101 Ranch?

A. Miller Brothers.

Q. Miller Brothers? Now, do you know whose money that is?

A. That was paid in as additional occupation taxes, and I believe it will be found that part of it belongs to certain counties and part of it belongs to the State of Texas.

Q. All right. Now, I will ask you if it is not a fact that \$112.50 of that money belongs to Tarrant county, \$112.50 belongs to Wichita county, and \$112.50 belongs to Eastland county, accounting for \$337.50?

A. I am pretty sure these are the counties in which the occupation taxes were assessed, and I am quite sure that part of the amount assessed belonged to the State and part to the county.

Q. Well, if that is so, I don't know it.

A. I think—I am quite sure it is.

It could only be demonstrated by getting the proper documents before the body.

Q. Well, are you willing to undertake to find out what portion of that goes to the State and what portion goes to those counties?

A. It can be easily ascertained by finding the proper records.

Q. Yes? Now, then, assuming that it does belong to those counties, we will pass to the next item.

A. Then you assume it belongs to all the counties?

Q. I assume that it belongs to all the counties, yes, sir.

A. None to the State?

Q. None to the State.

A. I don't assume that myself.

Q. Well, for the sake of argument, you don't mind, just for the sake of argument, in figuring it out? Now, there is \$2,458.00. Now, does that enter into any deficiency as contemplated by you?

A. Yes, sir.

Q. From whom was that received?

A. Al G. Barnes circus.

Q. That is an occupation tax, also?

A. As I understand, it was occupation taxes and various—for shows in various counties.

Q. Yes. Now, would you mind putting that under the \$337.50? You have it on that piece of paper?

Mr. Petsch: Now, your Honor, it occurs to me that this witness should not be called on to figure that out for anybody. That was made by some person. Let counsel for the other side figure it, that request was made by some of the members, that is what some of the members here say and insist on, and then, when an argument comes up, he won't be justified by statements of counsel, saying "I will keep your figures straight."

Mr. McGregor: This is the very essence of this man's testimony, if your Honor please, asking him about the conclusions he reached and the manner in which he reached them.

Judge Sinks: You can just ask him as far as adding up is concerned, you can make it certain now that this shows a certain amount and add it up together, so you will have it straight.

Mr. McGregor: All right, all right. Our auditor is gone. It will be proper for me to ask him about that—to put that \$2,458.00 under the \$337.50?

Judge Sinks: Do which?

Mr. McGregor: It will be proper to ask him to put that \$2,458.00 under the \$337.50?

Judge Sinks: Sure, that is all right.

Q. Now, that was the Al G. Barnes circus tax, you say?

A. Yes, sir.

Q. If that also belongs to the counties, of course, it would follow that none of that belonged to the State? I am not asking you to say that, but, just for the sake of argument, that is true, isn't it?

A. If it all belonged to the counties, none belonged to the State, none belonged to any one of the Comptroller's Department, either.

Q. Yes, sir. Now, we are assuming it all belonged to the counties. Now, this next item, \$775.94, representing the amount that was transferred from the Austin National Bank to the Texas Bank and Trust Company, as a fund being unaccounted for,—now, will you put that \$775.94 down?

A. I don't see any purpose in my combining a lot of figures like that, they don't belong to be combined, I don't see any sense in that at all.

Q. Well, I will enlighten you. Now, that added together makes \$3,571.44. Now, the escrow items consist—or did they consist of \$6,312.75, which had been determined to belong to the Magnolia Petroleum Company, is that right—is that amount right?

A. In regard to these escrow items, I have got to explain something there, or I can't talk about it.

Q. All right?

A. There is probably not an item in here, except two items, but there was some color or reason for calling it escrow items, but I believe there wasn't any escrow deposit in any of this money. What I understand by escrow item is that a third person holds some money for other persons interested in it, and I don't see any justification, and I don't see any distinction in holding that the Magnolia was escrow and the Sunshine Company wasn't escrow. As I say, there was some color of reason to call any of it escrow items. Why distinguish one as an escrow item for one thing and the State another?

Q. Now, are you through? Now, the amount of that Magnolia Petroleum Company was \$6,312.74, wasn't it?

A. I am sure you are quoting the right figures there. I will see if that is right (referring to paper). \$6,312.74.

Q. All right. Now, the Independent Oil Company's deposit, which is undetermined escrow, the amount was \$2,334.84?

A. That is the amount.

Q. Yes. Would you mind putting that under the Magnolia's amount?

A. \$2,334.84?

Q. Yes, sir.

A. All right.

Q. Would you mind telling us how much that aggregate is?

Mr. Petsch: Now, I suggest that he tell him what the aggregate is, because he has got it figured out. What is the use of a waste of time?

Judge Sinks: Judge, do you want the aggregate?

Mr. McGregor: Certainly, or I wouldn't have asked the question if I hadn't.

A. \$12,219.02.

General Keeling: Right.

Q. Now, you jumped there, I just asked—I beg your pardon—I beg your pardon, I slipped a cog myself. Would you mind putting down the sum of \$15.00 known as the Busick fund?

A. That is the wrong amount of the Busick fund, Senator McGregor; \$90.00 is the amount of that.

Q. Well, I am just asking you to put it down there, under the assumption it is \$15.00; I will give you credit for the \$75.00. Now, Mr. Phillips contends that \$15.00 is the Busick fund, and you contend that—What is the Busick fund under your proposition?

A. \$90.00.

Q. \$90.00, making a difference of—

A. Here, read what Mr. Phillips says about it. Do you want me to read that into the record, what Mr. Phillips said about it?

Q. I don't care. It is already in the record, or will be before we get through. I don't know what he said about it—he told me, but I don't know?

A. I will find out, I would like to get it clear. It is a small item, on page 13 of Mr. Phillips' report. He states the last deposit on December 13, 1929, was partially cleared up by paying direct to counties \$155.02—let's see what the amount of that was,—the amount of that was \$375.00; he said it was partially paid up by paying direct to the counties \$155.02 from this bank account and \$129.98 from the Texas Bank and Trust Company accounts. Now, let me add that these two accounts make \$285.00, he is leaving there \$15.00, it is just a matter of subtracting there.

Q. Now, the next item, Mr. Lynn, accounted for by Mr. Phillips, is \$28.85 to the Auto Supply Company. Do you account for that same amount?

A. Yes, sir.

Q. The next one is \$26.32, unknown item. Do you account for that?

A. Yes, sir, we account for that.

Q. Now, the grand total is \$12,289.19, as shown by Phillips' audit; and in addition to that, you charge the escrow items with \$75.00, don't you?

A. \$75.00 more than \$15.00, making \$90.00 altogether.

Q. Yes, sir?

A. That is right.

Q. And that would make your audit \$12,364.19?

A. No, sir; that doesn't make my audit \$12,364.19.

Q. Well, what does it make?

A. I have shown you what my audit did show.

Q. Well, you are still harping on that \$5,800.00?

A. Yes, and I will keep on harping on it.

Q. And without the \$5,800.00, it would still be \$12,364.00, wouldn't it?

A. That is right, I guess.

Mr. McGregor: Will your Honor indulge me just a moment? (After a moment.) You may take the witness, gentlemen.

Re-direct Examination.

Questions by Mr. Petsch:

Q. Mr. Lynn, on cross-examination the other day you were questioned about a statement made in your report concerning four or five checks to the amount of something like \$101.00, which you charged up to Mr. Terrell as being expended out of the Austin National Bank and charged to him personally, personal expenses. You were asked to explain why you didn't say that those items were paid out for the benefit of the State or for traveling expenses. Will you please state what your reason for making that explanation in your report was?

A. In the first place, I took them for just exactly what Mr. Terrell told me they were for—for personal purposes; and second, as I know of no provision of any statute whatever that would authorize the paying of any traveling expenses out of an escrow account.

Q. Well, then, Mr. Lynn, at the time when you wrote this report, state whether you then knew, or had an opportunity of knowing, that they were paid out for traveling expenses?

A. No, I had none.

Q. Senator McGregor, on his cross-examination, also, by way of stacking up the figures in his way, asked you whether or not it was a fact that Mr. Terrell paid out \$804.69 to the State in excess of State funds that were deposited in the Texas Bank and Trust Company?

A. Yes.

Q. What was your answer to that—did he do that or did he not do it?

A. I said that the State got more out of that account, using his figures his way; it got more out of it than the State put in.

Q. Now, then, the amount was \$804.69, wasn't it?

A. That is right.

Q. Now, when Mr. Terrell finally gave you the figures, gave you the information from his check stubs, as to the amount of money he drew out of that account for personal use, what did that amount to—the checks set out in the report?

A. What he admitted for personal use was \$714.41. What he said was uncertain was \$94.10; total, \$808.51.

Q. Now, if you added those two amounts together, what does that represent?

A. \$1,613.20, the Magnolia item deposited to that account.

Q. Well, that was the exact amount of the Magnolia Petroleum Company's items deposited in that account, wasn't it?

A. Exactly.

Q. And what does it show that that money was expended for?

A. It showed that \$808.51 was paid out for personal or unexplained reasons, and \$804.69 was used to repay to the State an amount that had been deposited in another account, not this account at all.

Q. In other words, he was using this Magnolia Petroleum Company fund for the purpose of paying a debt which he owed to the State for collections which he had made from other sources, is that correct?

A. That, and for personal uses.

Q. That, and for personal uses? By the way, what is the total amount of money that Mr. Terrell admitted that he drew out of the Austin National Bank for personal use?

A. \$3,219.31 for May, 1929, to January, 1930.

Q. When did Mr. Terrell close these accounts—his account in the Austin National Bank, the one in which he had deposited something over \$54,000.00; on what date did he close that account?

A. January 8, 1930.

Q. What did he do with the balance of the money that he had in that account on January 8?

A. Transferred that to the American National Bank and placed it in the name of S. H. Terrell, Comptroller, Special.

Q. What kind of an account is that,

a State fund account, S. H. Terrell, Special, in the American National Bank, is that a State fund account or a private account?

A. I believe that could really be considered a private account, because we do find some private funds had gone in there, which is no part of other funds.

Q. Well, what statement, if any, did Mr. Terrell make to you as to the character of checks he had drawn on that account?

A. I didn't talk to him, in fact, about it.

Q. Well, state whether or not your records contain a list of the checks which Mr. Terrell admitted that he drew on that account.

A. Yes, sir; those prepared by men of my Department.

Q. Well, do they show they were drawn for State purposes or for personal purposes.

A. Shows that all but \$155.02 were drawn for personal purposes.

Q. I believe that is all. Have you any other matter that you want to state in connection with these reports that you have been testifying about?

Mr. Prendergast of Harrison: Mr. Petsch, can you give us any explanation of the account where the State took more out than it put in; can you give us any explanation of that by the witness?

Mr. Petsch: Yes, sir; we will do it at this time.

Q. The account that you have reference to is the account which was carried in the name of S. H. Terrell, Comptroller, in the Texas Bank and Trust Company?

A. Yes, sir.

Q. That is correct, is it, Mr. Lynn?

A. Yes, sir.

Q. All right. Now, just briefly review the history of that account, state what money was placed in it and how it was taken out, so that the matter may be fresh before the members.

A. In the first place, I think it is a kind of artificial distinction about being "State funds" and "escrow funds" in there, as I stated a while ago. The amounts placed in there were as follows: Transferred from another account in the name of S. H. Terrell, Comptroller, \$775.94; Magnolia Petroleum Company, \$1,472.80; Magnolia Petroleum Company, \$140.40; Sunshine Consolidated Oil Company, \$6,609.28; Keeling Oil Company, \$200.00; Keeling Oil Company, \$100.00; total, \$9,298.42. None of that money has ever been shown to any of the auditors, or even to the Comp-

troller's own auditor; none of it was for any personal purpose whatever; it either belonged to the State or belonged to some company that owed taxes to the State. The first item was transferred from a tax account. Now, then, the amount deposited was \$9,298.42. Of course, the account being closed, the exact amount withdrawn for State purposes included—

Q. Now, just a minute. When you say the amount withdrawn for State purposes, do you mean by that the amount deposited in the Treasury, or do you mean by that the amount identified for State purposes—let us have that clear?

A. It was not all deposited in the Treasury. I mean, I should say, the amount drawn for other than personal purposes.

Q. Oh, yes; the amount withdrawn for other than personal purposes. What is that amount?

A. The total is \$8,489.91. But now, out of the \$8,489.91 paid out, there was only \$6,609.28 paid out that had been placed in the same account.

Q. In other words, what you mean, you mean that it was actually placed in the Treasury, was it?

A. It was placed—first placed in this account, taken out of the account and placed in the Treasury. Now, then—

Q. Just one question about that item: What is that item for?

A. Sunshine Consolidated Oil Company.

Q. How long did that remain in that Texas Bank and Trust Company account, does the record show?

A. Yes. It wasn't very long—from June 5—June 5, 1926, to July 28, 1926.

Q. In other words, a little over a month? Did the Comptroller ever offer any character of explanation as to why he didn't put that money directly into the Treasury instead of putting it in this semi-private account?

A. Well, there may have been some explanation offered some time, that there was some question, something of uncertainty about it. I don't recall if there was such an explanation offered.

Q. If there was an explanation offered, it was not offered to you, is that right?

A. That is right. But now, the point I want to get at here, of the \$8,489.91 so paid out, not for Mr. Terrell's personal use, only the \$6,609.98 was an item that had been placed in that account, and the following items were drawn out of the Texas Bank and Trust Company, that had been placed in the

Austin National Bank: Littlefield Oil Company, \$1,000.00; Cardinal Oil Company, \$389.62; B. K. Oil Company, \$250.00; B. P. Oil Company, \$20.03; A. J. Rohan, \$100.00; and amounts distributed to tax collectors on account of Busick, \$129.98. Those all represent deposits made in another account and drawn from this account.

Q. In other words, he used this in order to secure—in order to gain full credit for \$8,489.91; he used this account to that extent to pay a part of the money to the State which had been deposited in the Austin National Bank—that is, to the amount and description of the items which you have just read?

A. That is true. The only reason that there was more taken out of this account was because it was out in another account to start with—just a confusion of the record.

Q. Now, then, I will ask you this other question once more, as a matter of repetition, because there is a number of the members present who were not here the other day: What is the total amount that you charged Mr. Terrell for as being unaccounted for or misappropriated, or both, including the \$1,200.00 item?

A. The final figures?

Q. Yes, sir.

A. \$19,447.76.

Q. Now, can you give in detail, or have you prepared a detailed statement showing the deposits, and also the withdrawals, in that entire transaction?

A. Yes, sir, I have that.

Q. Have you that available here now?

A. It is quite a large record, but I have it here where it can be looked at and read into the record.

Q. We will skip that now. If anybody wants to have it read in the record, we can do that later on.

Q. Now, Mr. Lynn, on yesterday you testified to the effect that—I don't mean on yesterday, the time that you were on the stand on your direct examination several days ago—you testified that you were investigating the item of \$657.13 shown to have been drawn out of the Austin National Bank on October 24, 1927. You also further stated that at that time you did not know what that money was spent for. State whether or not your investigation at this time disclosed what it was spent for?

A. I believe I told then that we had some intimation that it was for the purchase of a car from a banker in North Texas. We definitely learned that that was the case.

Q. What kind of automobile was it?

A. A Chevrolet coupe.

Q. Where was that automobile purchased, and from what firm?

A. I don't recall the name of the firm, but it was bought from a banker in Burleson, Texas.

Q. And where was the car registered?

A. Johnson county—Burleson.

Q. And in whose name was it registered?

A. S. H. Terrell's. I can give you a full description of the car: Registered in Johnson county in the name of S. H. Terrell in May, 1927; registered in Johnson county in the name of S. H. Terrell, Jr., in 1927. No record after that date.

Q. State whether or not that banker has been requested to come down here to testify.

A. I understand he has been subpoenaed.

Mr. Petsch: That is all. Are there any questions any of the members desire to be asked? If not, that is all.

Mr. McGregor: Mr. Chairman, we reserve the right to further examine this witness if we desire to do so. At this time, we don't think we will have any other questions.

Judge Sinks: All right.

Mr. Wallace of Freestone: I move, Mr. Chairman, that the Committee of the Whole stand at ease until 1:30.

Mr. Purl of Dallas: Wouldn't the proper thing be to extend the call to 5 o'clock and everybody be back on their honor, like the other day?

Mr. Wallace: I ask the unanimous consent of the Committee to stand at ease until 1:30, everybody on their honor to come back.

Mr. McCombs of Dallas: I move to adjourn until Monday at 10 o'clock.

Mr. Purl: Mr. Chairman, I want to move that the call of the House be extended until 5 o'clock, and everybody to be on their honor to be back here at 2 o'clock.

(Cries of "1:30!")

The Chairman: We have to go back to the House. Is there any objection to the Committee's standing at ease until 1:30? The Chair hears none. There is objection.

Mr. McCombs: I move that the Committee rise, report progress and ask permission of the House to stand adjourned until 10 o'clock Monday.

(Cries of "no!")

Mr. Anderson of Bexar: I want to substitute a motion that we adjourn

until Monday at 9:30 a. m., inasmuch as today is the 22d of February, and I believe that members should get out and properly celebrate Washington's Birthday.

(Cries of "no! no!")

The Chairman: The gentleman from Bexar moves that the Committee rise, report progress and meet again at 10 o'clock Monday morning.

Mr. Purl: I have a motion, Mr. Speaker. I move that the House be put on call, in the same motion, until 5 o'clock, and be back here, on their honor, at 1:30.

The Chairman: The gentleman from Dallas moves that the Committee rise, report progress, and meet again—the motions on adjournment will have to be put first. As many as favor the motion of the gentleman from Bexar, that the Committee rise, report progress and ask permission of the House to meet again at 9:30 o'clock Monday morning, will please say "aye."

(Cries of "no!")

A Member: Division, Mr. Speaker.

The Speaker then stated that all who favor that motion will vote "aye"; those opposed vote "no." Judge Sinks votes "no." We want to have a full vote here, gentlemen. Now, there is a record vote called for. Mr. Montgomery votes "no." Will a division be sufficient?

Mr. Anderson: That will be sufficient for me after looking at that board.

The Chairman: Have all voted? The members will please be seated. Have all voted?

Mr. Wallace: Point of inquiry.

The Chairman: State the point of inquiry.

Mr. Wallace: I understand that the record vote had been withdrawn.

The Chairman: Several passes have been issued to the members to go downstairs in the Capitol. Now, have all voted?

A Member: Mr. Chairman, there was no objection to a division, was there?

The Chairman: Yes, sir, there was objection to a division. Mr. Sergeant-at-Arms, get the members in the rooms back of the Hall, get them in the reception room.

Mr. Morse of Harris: Mr. Speaker, I withdraw the objection.

The Chairman: Have all voted? It shows 99 members voted, 17 "ayes," 79 "noes," three "present, vot voting."

Mr. McCombs: I withdraw my motion.

The Chairman: All right. You gentlemen who demanded the roll call, do you still demand it?

A Member: Yes, sir, I do.

Mr. McGill: Mr. Chairman, point of order.

The Chairman: State the point of order.

Mr. McGill: It takes three members to call for a record vote.

The Chairman: Three members called for it, Mr. McGill.

Mr. Purl: Mr. Chairman, call the House.

The Chairman: It is moved that a call of the Committee be had for the purpose of securing a quorum. As many as favor calling it for the purpose of securing a quorum say "aye," those opposed "no." The "ayes" have it. Call a quorum.

Mr. Purl: Let the members register and see if we have got 100.

The Chairman: The members will please register, all members present please register. Have all registered? The roll call shows 103 members registered.

Mr. Barnett of Hunt: I move the call of the Committee for 5 o'clock this afternoon.

The Chairman: As many as favor ordering the call of the Committee for 5 o'clock this afternoon vote "aye."

A Member: It is not seconded.

The Chairman: It is seconded.

A Member: The "ayes" and "noes" are called for.

The Chairman: The "ayes" and "noes" are called for. As many as favor the motion will vote "aye," those opposed "no." Have all voted? There are 72 "ayes" to 30 "noes." The motion prevails.

Mr. Wallace: Mr. Chairman, I move that we stand at ease until 1:30.

The Chairman: Is there any objection?

(Cries of "no!")

The Chairman: There is objection.

Mr. Kayton of Bexar: I move that the Committee proceed with the hearing without interruption, and that no member be given a pass.

(Cries of "aye!")

The Chairman: The gentleman from Bexar moves that the Committee proceed with the hearing without interruption, and that no member be given a pass. As many as favor the motion say "aye."

(Cries of "aye." and cries of "no.")

The Chairman: Those opposed say "no."

(Cries of "no.")

The Chairman: Vote. Vote "aye" and vote "no." Vote promptly, please.

Mr. Snelgrove of Rusk: I vote "no."

The Chairman: Mr. Snelgrove votes "no."

Mr. McGill: I am "present," Mr. Chairman.

The Chairman: Mr. McGill is "present."

Mr. Wallace: Mr. Chairman, what is the motion?

The Chairman: The motion is that we proceed with the trial, and that the Speaker be authorized not to give any passes.

Mr. Kayton: If you fellows want to go to work, vote "aye." If you don't want to go to work, vote "no."

The Chairman: There being 32 "ayes" and 69 "noes," two present without voting, the motion is lost.

Mr. Purl: Now, Mr. Speaker, we all wanted to be present in these proceedings and we have all come down here, and I want to ask that the House consent to stand at ease until 2 o'clock.

Mr. Tarwater of Hale: I move that the Speaker be authorized to issue passes to all who want to go to dinner and place them on their honor to return here at 2 o'clock.

(Cries of "aye.")

Mr. Kayton: Mr. Speaker, parliamentary inquiry.

The Chairman: State your inquiry.

Mr. Kayton: I am not a student of the rules, but I would like to be quoted that section which puts members on their honor to come back here when they are out of the House.

The Chairman: It is in the rules.

Mr. Purl: What is before the House?

The Chairman: Nothing.

Mr. Keller of Dallas: Mr. Speaker and ladies and gentlemen, it has reached an absurd point when we have to make members come out here to perform their duties. Mr. Speaker, we can adjourn, and if they don't come back we can get the sheriff after them, just like we did the other day. I would like to have the floor to make a motion. I ask that the Chair ask the unanimous consent of the House that we stand adjourned until 1:30 for the purpose of feeding our hungry bodies.

Mr. Purl: Stand at ease.

The Chairman: The gentleman moves that the Committee stand at ease until 1:30. Is there any objection?

A Member: Is the House under call?

The Chairman: The House is under call.

Mr. Kayton: Point of inquiry.

The Chairman: State your inquiry.

Mr. Kayton: What is the status when we leave the House?

The Chairman: You are still under call.

Mr. Kayton: I object.

Mr. Keller: Mr. Chairman, I am going to make a motion which just places each man on his word of honor, as far as he is concerned. A man's honor is his whole asset, he lives by it. I am going to move that the House adjourn until 1:30.

The Chairman: Mr. Keller, you know we are in the Committee of the Whole House. Let that motion be, or some motion be, that we rise, report progress and ask permission of the House to stand at ease.

Mr. Keller: I move that the Committee rise, report progress and ask permission of the House that we recess until 2 o'clock.

The Chairman: All right. The gentleman from Dallas moves—

Mr. Anderson: Mr. Chairman—

The Chairman: The gentleman from Bexar.

Mr. Anderson: Mr. Speaker and gentlemen of the House, the gentleman from Dallas has said that he is going to make a motion which places each man on his word of honor—

Mr. Holder of Dallas county: Point of order.

Mr. McCombs: Point of order.

Mr. Holder: Mr. Chairman, this motion is not debatable.

Mr. Anderson: I don't believe this is. We have a quorum in the city of Austin, and I really object to the undemocratic methods, harassing methods, of calling out the Adjutant General's Department, and the sheriff, and the various other officers. I believe the members of this House down here will come back, and if they don't come back then we will say you will have to bring them in. What I would like to have would be for this House to go on in an orderly way, under the rules of the House.

The Chairman: As many as are in favor of the motion say "aye," opposed "no." The "ayes" have it. The House of Representatives is still under call. The gentleman from Dallas moved that the Committee of the Whole rise, report progress and ask permission of the House to extend recess until 2 o'clock. As many as are in favor of that motion will say "aye," opposed "no." The motion prevails.

(Recess was thereupon had at 12:12 o'clock p. m. until 2 o'clock p. m. of the same day.)

Pursuant to adjournment at 12:15 p. m., on motion of Mr. Van Zandt the House resolved itself into the Committee of the Whole for the purpose of considering the impeachment charges against S. H. Terrell, Comptroller, whereupon the question was taken and the motion prevailed.

The Chairman: The Committee will be in order. The gentleman from Tarrant then moved a call of the Committee until 6 o'clock.

The Chairman: Is the call seconded—the call is seconded. "Ayes" and "noes" called for. As many as favor a call of the Committee until 6 o'clock vote "aye," those opposed vote "no." Whereupon the question was taken and the motion prevailed and the call of the Committee is ordered until 6 o'clock.

Mr. Anderson: I want to move that the doors be ordered closed by the Speaker, and that all members not now in the Hall be brought in in chains.

The Chairman: Who is the next witness, gentlemen?

Mr. McGill: C. R. Parks.

The Chairman: Is Mr. Parks in the House? He does not seem to be here.

A Member: I understand that he was in an automobile accident last night and got his collarbone broken.

The Chairman: Who is your next witness?

Mr. McGill: F. A. Taylor.

Whereupon, F. A. Taylor, being duly sworn by the chairman, testified as follows on

Direct Examination.

By Mr. McGill:

Please state your name to the committee.

A. F. A. Taylor.

Q. What is your position, Mr. Taylor?

A. I am county auditor of Brazoria county.

Q. Where do you live?

A. Angleton.

Q. How long have you been county auditor of Brazoria county?

A. Nine years.

Q. Mr. Taylor, I will ask you if, in connection with your duties as county auditor of Brazoria county, you ever had any negotiations with the Texas Tax Record Company or its representatives with reference to entering into a contract or contracts for the collection of delinquent taxes in Brazoria county?

A. Not that I know of. I do not know that corporation.

Q. Did you ever have any corre-

spondence with the Comptroller. Mr. Taylor?

A. I did.

Q. Relative to the collection of delinquent taxes in Brazoria county?

A. I did.

Q. Do you have copies of letters that you wrote to Mr. Terrell and letters that you received from him?

A. I have.

Q. When did you first write to Mr. Terrell in reference to these delinquent tax matters?

A. In April, 1929.

Q. I will ask you if that is a copy of a letter that you wrote to Mr. Terrell?

A. It is.

Mr. McGill: We wish to offer this in evidence.

The Chairman: The clerk will read the letter.

Whereupon the reading clerk read the copy of the letter, reading as follows:

April 5, 1929.

Honorable S. H. Terrell, State Comptroller, Austin, Texas.

Dear Sir: It is the desire of the commissioners court of this county to get all the delinquent tax collected for this county, and as you well know, it is a great problem.

So I want to ask your advice and assistance. You are familiar with the methods used by other counties, and have observed the results they have had, and I am sure you can suggest the best course to pursue.

I would also ask that you put me in touch with some of the counties that have been successful in getting their tax records cleaned up of all delinquent taxes, so that I can learn from them the basis of the contract they had.

Thanking you for your consideration in this matter, I am,

Respt.

Auditor of Brazoria County.

Q. Now did you receive any reply to that letter from the Comptroller?

A. I did.

Q. I will ask you if that is the letter that you received from the Comptroller, dated April 8, 1929, which was in reply to your letter of the 5th?

A. (Witness examines letter.) It is.

Mr. McGill: We wish to offer it in evidence.

The Chairman: Is there objection?

Mr. McGregor: None whatever.

Whereupon the reading clerk was directed to read the letter which is as follows:

Comptroller of Public Accounts.
State of Texas.
Austin.

S. H. Terrell, Comptroller.
J. M. Edwards, Chief Clerk.
E. W. Chaney, Secretary.

April 8, 1929.

Honorable F. C. Taylor, County Auditor, Angleton, Texas.

My Dear Sir: Replying to your letter of the 5th inst., I am glad to note that your commissioners court has under consideration the employment of some competent attorney to assist in the collection of delinquent taxes in your county.

A number of counties throughout the State have been adopting this system of collection of delinquent taxes and where competent persons have been employed the results have been gratifying so far as I have observed.

I am taking the liberty to refer your letter to Mr. A. P. Bagby, formerly a tax supervisor in this office for some eight or ten years, and at one time State Tax Commissioner, who now has a contract in San Patricio county, and who, I am sure, will be glad to give you such detailed information as he may have at hand that may be of some benefit to you at this time.

Recent decision of the State Supreme Court in the case of Cherokee County vs. A. R. Odem, Tax Collector, et al., holds that a county commissioners court is vested with authority to enter into a contract under Article 7335 of our statutes on behalf of State taxes collected, and to authorize the payment of compensation upon a contingent basis out of the same. This decision, it occurs to me, is entirely equitable, in as much as the State benefits equally with the county for the services performed.

I have requested Mr. Bagby to give you all the information he may have available.

Assuring you of my pleasure to fully cooperate with you at all times, and trusting you will feel free to command me when I may be able to render you any service, I am,

Cordially yours,

S. H. TERRELL, (Signed)

SHT/ms

State Comptroller.

Q. After you received that letter from the Comptroller, did you communicate with Mr. Bagby.

A. I did.

Q. I will ask you if that is a copy of the letter that you wrote him?

A. (After examining letter.) It is.

Mr. McGill: We offer it in evidence.

The Chairman: The Clerk will read the letter.

Whereupon the Reading Clerk read the letter, which is as follows:

April 11th, 1929.

Mr. A. P. Bagby, Sinton, Texas.

Dear Sir: The Honorable Mr. S. H. Terrell says that he referred my letter addressed to him relative to information on delinquent tax collection to you. And not having heard from you yet, and being anxious to get the matter threshed out so that I can present the matter to the commissioners court at their next regular meeting, I am taking the liberty to ask you to please give it your early consideration.

I infer from Mr. Terrell's letter that you are doing that kind of work for San Patricio county, and that probably you would be in position to consider doing the work for us. If you would be interested, please give him an outline of the way you handle the work, and on what basis you contract the work.

I will state that we have over a half million dollars outstanding in delinquent taxes, and it dates back to 1885. We are very anxious to get this cleaned up, and to get our records on a basis that we will be able to keep the taxes collected.

Thanking you for an early reply, I am,

Respt.,

CO. AUDITOR, Brazoria County, Texas.

Q. Now, Mr. Taylor, after you wrote that letter to Mr. Bagby, did you receive any reply from him?

A. I did not.

Q. Did he come down there?

A. He did.

Q. And talked the matter over with you?

A. Yes, sir.

Q. What, if any, agreement was entered into between you and Mr. Bagby and the Texas Tax Record Company relative to the collection of these delinquent taxes?

A. There was none.

Q. What propositions, if any, were made by Mr. Bagby?

A. He did not make any definite proposition.

Q. What did he do when he came down there?

A. He asked me to come to San Patricio county and see how they were doing the work there.

Q. Did anybody come with him—

A. Mr. Martin.

Q. E. J. Martin?

A. I do not recall the initials.

Q. Do you know whether he was the Mr. Martin connected with the Comptroller's Department?

A. He was so introduced to me.

Q. After you had this conversation and request that you investigate the work that was being done in San Patricio county, did you go over there?

A. We did not.

Q. What did you do with reference to the collection of these delinquent taxes?

A. The commissioners court received a communication from some of the other counties that had learned that we had a contract to let and a visit was made to some of these counties to see how the matter was handled there, after which a contract was entered into with the Mills-DeWitt Company.

Q. What was your purpose in writing to the Comptroller in the first instance in regard to this matter?

A. I did not know the best way to proceed and I considered that he would be familiar with it—that other counties had made tax collections contracts and desired to secure information as to whether or not they had been successful—some companies had been more successful than other ones.

Q. Now, when was it you entered into the contract with the Mills-DeWitt Company, if you have that information?

A. In June, 1929.

Q. Did the Mills-DeWitt Company go to work collecting the taxes under that contract?

A. They did.

Q. Did you have any correspondence with the Comptroller in reference to that contract which you had entered into with the Mills-DeWitt Company?

A. I wrote him but I did not get any reply.

Q. When did you write him?

A. I believe it was in September.

Q. Is that the first letter that you wrote him or do you recall, or did the tax collector write him?

A. The tax collector is here and I believe he could answer that better than I. We tried to get the Comptroller to pass on the legality of our contract with the Mills-DeWitt Company. I wrote him myself once or twice and I was in his office in person once or twice.

Q. Was that before you wrote the letter of October 2 that you were in the office personally?

A. Let me see the letter, please. I think I was in the office prior to the time I wrote that letter.

Q. Was that prior to your visit to the Comptroller in his office?

A. I think it was.

Q. What took place when you visited the Comptroller in his office—what was said between you?

A. He said he could not approve the contract and would not issue specific instructions to the collector to take out the State's part and take credit for it; that he might some time have to recover the State's part.

Q. He said he could not and would not approve it?

A. Yes, sir.

Q. You then wrote him this letter of October 11th after you had come back after that interview?

A. I could not be sure that this letter was written prior to or subsequent to this interview.

Mr. McGill: We offer the letter in evidence.

The Chairman: The clerk will read the letter.

Whereupon the reading clerk read the letter to the committee and which is as follows:

October 11, 1929.

Hon. S. H. Terrell, Comptroller of Public Accounts, Austin, Texas.

Dear Sir: About the first of July, the tax collector of Brazoria county, Texas, mailed you a certified copy of a contract made by Brazoria county, Texas, with Mills-Dewitt Company for the preparation and installation of plat book system and the collection of all delinquent taxes, including the State delinquent taxes.

The tax collector has requested me to procure a ruling for him through the regular channels as to the legality of this particular contract.

And also a specific ruling from you as to whether your department will allow him credit for his deduction of thirty-three and a third per cent of the State taxes collected by him as provided by the contract above referred to.

We are familiar with the Supreme Court decisions on these contracts, as well as the rulings of the Attorney General, in which the preparation of the plat book system and maps is involved. And I will say here that the preparation of the maps and plats, with the necessary surveying of and correction of the many surveys that are in error in this county, are absolutely necessary in the collection of the delinquent tax and without them anything like a systematic collection would be utterly impossible.

So I will ask that you pass on this contract and issue specific instructions to our tax collector, Mr. George W.

Sheffield, as to the payment of the State's part as per terms of the contract.

Respectfully,
Auditor of Brazoria County.

Q. Now, Mr. Taylor, after you wrote that letter, did you receive any reply to it from the Comptroller?

A. No, sir.

Q. I will now ask whether or not you wrote the Comptroller again on October 25, 1929?

A. I did. That was after the visit in person to his office.

Q. You visited the Comptroller's office in person after you wrote your letter of October 11th?

A. Yes, sir. I was referred to Mr. Pat Moulden. He said that he had not had time to consider the contract and look it over carefully, but he would give it a little time and after having time to look it over he said that it was not set out definitely enough that the proposition of the plat map system, or abstract, had not been set out definitely enough to meet the ruling of the court with reference to the State's proportion for the compensation in the contract. So I went back and got a certified copy of the order of the court and sent it to him and his letter is in reference to that.

Q. That is a correct copy of the letter that you wrote to the Comptroller on October 25, 1929?

A. Yes, sir.

Mr. McGill: We offer the letter referred to in evidence.

The Chairman: The clerk will read the letter.

Whereupon, the reading clerk read the letter in question, which is as follows:

October 25, 1929.

Hon. S. H. Terrell, Comptroller of Public Accounts, Austin, Texas.

Attention J. P. Maulden.

Dear Sir: Find enclosed a certified copy of the order of the commissioners court of Brazoria county, Texas, which preceded the signing of the contract with Mills-Dewitt Company for the installation of a block map system and the collection of delinquent taxes.

This, in conjunction with the contract, of which you have a copy, gives you full information as to the conditions of the contract and meets in full the conditions ruled on by the courts in the Madison county and Cherokee county cases with reference to the State's participation in the contract and the costs of the work.

So I will ask you, as we agreed, submit this contract of the court to the Attorney General's Department for their

ruling on this particular contract, and in the event of his approval, will ask that you or your department instruct our tax collector to pay the contractor that portion of the State's taxes collected as provided in the contract.

Thanking you for as prompt attention to this as meets your convenience, and for the courtesy extended me personally while in your office this week, I am,

Sincerely,

F. A. TAYLOR,

Auditor of Brazoria County, Texas.

Q. Now, Mr. Taylor, after you wrote that letter did you receive any reply from the Comptroller or Mr. Maulden to it?

A. I did not.

Q. Did you have any other further personal interview with the Comptroller or Mr. Maulden?

A. I did not.

Q. Either with the Comptroller or Mr. Maulden?

A. No, sir.

Q. Has the contract, so far as you know, ever been approved?

A. It has not.

Q. Has the money or any money ever been paid to the Mills-Dewitt Company?

A. No, sir.

Mr. McGill: That is all. Pass you the witness for cross-examination.

Cross-Examination.

By Mr. McGregor:

Q. Mr. Taylor, you stated that the money was being held in escrow?

A. It is.

Q. What are the contingencies of that escrow?

A. We agreed and are to await for the approval of the Comptroller and his authority to the collector to take credit in his report for the State's part of the compensation provided for in the contract.

Q. Has there been any ruling by the Attorney General's Department about the matters involved, or do you know?

A. There was a letter to the collector in which he did not approve it.

Mr. McGregor: That is all.

(Whereupon the witness was excused.)

George W. Sheffield, Jr., a witness for the House of Representatives, being duly sworn by the Chairman, thereupon testified as follows on

Direct Examination.

By Mr. McGill:

Q. Please state your name to the committee.

A. George W. Sheffield, Jr.

Q. Where do you live?

A. Angleton, Texas.

Q. What is your occupation or position?

A. Tax collector of Brazoria county, Texas.

Q. Mr. Sheffield, did you have any correspondence with the Comptroller relative to the collection of delinquent taxes of Brazoria county, Texas, during the year 1929?

A. Yes, sir.

Q. How did you happen to have any correspondence with the Comptroller?

A. Well, our county auditor and the commissioners court had entered into a contract with the Mills-Dewitt Company for the collection of its taxes and the basis of the correspondence with Mr. Terrell was to get his approval to allow me credit for the deduction of the State taxes collected under this contract—that is, the State's proportion of the cost.

Q. Now, had you received any letters from the Comptroller prior to having the correspondence and having the correspondence with him relative to this matter of contracting for the collection of delinquent taxes?

A. I believe I had one letter.

Q. Was that the letter of May 6, 1929?

A. (After examining the letter referred to.) Yes, sir; this is the letter that I refer to.

Q. You received that letter prior to the one—to the first time that you took this matter up with the Comptroller about this contract?

A. Yes, sir; I did.

Mr. McGill: We now offer the letter in evidence.

The Chairman: The clerk will read the letter.

Whereupon, the reading clerk read the letter, which is as follows:

Comptroller of Public Accounts,
State of Texas.

Austin, May 6, 1929.

Mr. G. W. Sheffield, Angleton, Texas.

Dear Mr. Sheffield: We are sending to the county judges throughout the State a letter advising with reference to the Supreme Court overruling the motion for a rehearing in the case of Cherokee County et al. vs. A. R. Odom, thus finally fixing the right of the commissioners court to contract for the collection of delinquent taxes and to allow compensation therefor a per cent of the taxes collected, for both State and county, said right as to a percentage of the

State's taxes heretofore having been held unconstitutional.

The purpose of this letter to you is that in the event such contract has been made in your county, it will be necessary that this department have a certified copy of all such contracts (request for which has been made of your county judge) before we would have authority to allow you credit for any per cent of the State tax which may be claimed as compensation allowed. Also that the taxes so collected be designated in some way by segregated list if necessary in order that the Comptroller may have a check on the amount of taxes from which he is to allow credit to the collector.

The amount of credit allowed will, of course, depend upon the literal construction of the contract and its construction with the law under which it is made. Consequently if there should be any doubt in your mind regarding commission coming out of State taxes, whether or not such commission should be held in escrow, until status of same is determined, is a matter for your discretion.

It may be that a new form to be included in your monthly reports will be provided for listing collections made under contract, regarding which you will be advised in the near future after we have determined more fully the effect of such collections and the most appropriate method of reporting same.

Yours very truly,

(Signed) S. H. TERRELL,
State Comptroller of Public
Accounts.

Q. Now at that time, Mr. Sheffield, had your county entered into a contract with the Mills-DeWitt Company—did you do that before or after that time?

A. After that.

Q. Do you recall about when?

A. The date of the contract, is, I am quite sure, June 17, 1929.

Q. Then, after the contract had been entered into, did you write the Comptroller relative to whether or not you should retain the amounts called for in the contract of your report?

A. I did not write him exactly that.

Q. Did you write him a letter in regard to that?

A. Yes, sir.

Q. Is that (handing witness letter) a copy of the letter that you wrote him?

A. (Witness examining letter handed him.) Yes, sir.

Mr. McGill: We now offer the letter in evidence—

The Chairman: The Clerk will read the letter—

Whereupon the Reading Clerk read the letter, which is as follows:

July 9th, 1929.

Mr. S. H. Terrell, Comptroller, Austin, Texas.

Dear Sir: Enclosed herewith my monthly report of June collections together with my check for the amount due the State of \$837.24.

You will note on Form 110 my deduction of the amount of \$103.96 due the Mills-DeWitt Company on redemption collections on and after June 17th, 1929, the date of their contract with this county. This 33½% commission is on \$311.88, the amount of State tax, penalty and interest on redemption receipts numbers 2789 to 2821, inclusive. A certified copy of the above mentioned contract is enclosed herewith.

Will you kindly advise if you require any evidence of me in the form of a receipt or duplicate deposit slip to show disposition of the deductions made as required in the contract.

Yours very truly,
GEO. W. SHEFFIELD, JR.,
Tax Collector.

Q. Now, Mr. Sheffield, did you receive any reply from the Comptroller advising you as to the request made by you in that letter?

A. I did not.

Q. Did you have a personal interview with him in reference to it?

A. No, sir.

Q. I will ask you to state whether or not you received a letter on September 24, 1929, from the Comptroller?

A. Yes, sir.

Q. Is that the letter (handing witness letter)?

A. (Witness examining letter.) It is.

Q. Is that the only letter that you received from him from the time that you wrote him on July 9th?

A. Yes, sir.

Q. Mr. McGill: We offer the letter from the Comptroller in evidence—

The Chairman: The Clerk will read the letter—

Whereupon the letter, reading as follows, was read by the Clerk:

Comptroller of Public Accounts,
State of Texas,
Austin.

September 24, 1929.

Mr. G. W. Sheffield, Jr., Tax Collector,
Brazoria County, Angleton, Texas.

Dear Sir: Relative to the collection of delinquent taxes by contract, under the decisions of the Supreme Court in the Cherokee and Madison county cases, as construed by the Attorney General, I shall advise you as follows:

Art. 7335, R. S., 1925, referred to in the court decisions is the law under which commissioners courts have authority to contract refers only to the collection of delinquent taxes on land. Therefore, personal property tax appearing on the insolvent list, Form 16, does not come under the provisions of this law and no percentage therefrom can be allowed as compensation to the contractor.

As we understand the law in the light of these decisions and the Attorney General's construction thereof, it is only the tax of assessments wherein real estate is included which becomes delinquent and is reported on the delinquent list Form 18, following the 31st of March of each respective year, together with that already compiled and appearing on the delinquent tax record that comes under the provisions of Article 7335, and the payment of any commission by a tax collector to a contractor is contingent upon the collection of such tax.

Whenever the making of abstracts, maps and plats are necessary to clear up and to collect the delinquent tax they should be made and regarded as an essential part of the services required by the contract made under the provisions of Article 7335, and the compensation for such services should be taken care of out of the percentage allowed by said contract to be paid for by the State and county alike, but no part of the State taxes can be used for the making of maps and plats provided for by Article 7344, except where the same are incident to the making of abstract and collection of delinquent taxes as held in the case of Commissioners Court of Madison County vs. Wallace, 15 S. W. (2d) 535.

The Attorney General holds that a stipulated amount can be paid for the services authorized by Article 7335 only when said stipulated amount is paid out of a fund created by placing therein a certain percentage of the taxes collected. This, as we understand, would

be equivalent to saying that only a per cent of the State taxes can be used as compensation and that a stipulated amount or a lump sum can not be added thereto as additional compensation for services required.

In view of the above holdings, I shall advise that out of all taxes collected from either Form 18, or the compiled delinquent tax record, pursuant to contract made in accordance with the provisions of Article 7335 providing a percentage of such tax as compensation, the collector has authority to pay such percentage to the contracting party and to withhold said amount, taking credit for same on Form 110 of the monthly report.

We have prepared and are furnishing tax collectors of counties wherein contracts have been made, and certified copies of the same have been furnished this office, with a special Form 115A upon which to list collections made in pursuance to contracts. A copy of this form is herewith enclosed. Said form is to be included with and become a part of the collector's monthly reports. If you have not been furnished with a supply of these forms, make request and they will be sent to your address.

With kindest regards, I am,

Yours very truly,

(Signed) S. H. TERRELL,
Comptroller of Public Accounts.
Moulden—jlm

Mr. Keeling: Will you read the dictator's initials?

A. Moulden—jlm.

Mr. McGill: I believe that you stated that was the first communication that you had received from the Comptroller after you wrote him on July 9th, asking for specific instructions for the Mills-Dewitt Company?

A. Yes, sir.

Q. Did you receive any further communications from him in answer to your inquiry of July 9th?

A. No, sir; unless you would consider that letter—you mean apart from that?

Q. Yes, during that time and up to 1930?

A. Yes, sir.

Q. Had you received any other communications from the letter after he was sent that letter—after you sent him your letter of July 9th?

A. No, sir.

Mr. McGill: We offer in evidence the letter from the Comptroller dated January 14, 1930.

The Chairman: The clerk will read the letter.

Whereupon, the reading clerk read the letter above referred to, which is as follows:

Comptroller of Public Accounts,
State of Texas,

Austin, January 14, 1930.

Mr. George W. Sheffield, Jr., Tax Collector, Brazoria County, Angleton, Texas.

Dear Sir: I am enclosing herewith opinion of the Attorney General regarding contract made between Mills-Dewitt Company and Brazoria county pertaining to the collection of delinquent taxes.

You will note from the opinion that the contract is held to be invalid, as the opinion reads that the same is not in compliance with the law. By reason of this opinion, you are instructed to make no payments of commission to the contracting parties from State taxes collected.

I will suggest that you advise your county judge and also Mr. F. A. Taylor, your county auditor, of the Attorney General's holding.

With kindest regards, I am,

Yours very truly,

(Signed) S. H. TERRELL,

Comptroller of Public Accounts,
Moulden/MJB.

Enc.

(Copy)

January 14, 1930.

Hon. S. H. Terrell, State Comptroller, Capitol.

Dear Sir: Your letter of the 2nd instant addressed to the Attorney General Bobbitt has been referred to the writer for attention.

You inclose a certified copy of a contract between Mills-Dewitt Company and Brazoria county pertaining to the collection of delinquent taxes in said county. You ask us to return these instruments with our opinion.

We have given careful consideration to this contract and have reached the conclusion that the same is not in compliance with law and that you are not authorized to approve any reports of the tax collector of Brazoria county deducting any portion of State taxes to pay the compensation provided for in said contract.

Very truly yours,

H. GRADY CHANDLER.

Assistant Attorney General.

HGC—A

Incls.

Q. Now, Mr. Sheffield, I will ask you

whether or not that was the only letter that you received from the Comptroller from the day of your request on July 9, 1929, which specifically referred to the contract which your county had with the Mills-Dewitt Company and in which you asked for definite instructions?

A. It is.

Q. Did you answer that letter?

A. Yes, sir.

Q. Is that a copy of your answer (handing witness letter)?

A. It is.

Mr. McGill: We offer the letter in evidence.

The Chairman: The reading clerk will read the letter.

Whereupon, the reading clerk read the letter to the committee which is as follows:

January 24, 1930.

Hon. S. H. Terrell, State Comptroller, Austin, Texas.

Dear Sir: I beg to acknowledge the receipt of your letter of January 14th, having reference to the contract entered into between Brazoria county and the Mills-Dewitt Company, pertaining to the preparing of a plat book, abstract maps, etc., and the collection of delinquent taxes. I note that you enclose with your letter a copy of the opinion of Mr. H. Grady Chandler, Assistant Attorney General, and you call attention to the fact that from the opinion it would be noted that the Attorney General held the contract to be invalid and not in compliance with law and you say that by reason of this opinion I was instructed to make no payments of commission to the contracting parties from the State taxes collected.

In making my monthly reports for the months of June to December, 1929, inclusive, I took credit for amounts aggregating the sum of \$2,016.34, as shown by my reports forwarded to you. The amount stated represents the State's portion of the delinquent taxes collected during the months mentioned.

I interpret your letter to mean, though you do not so state specifically, that you now decline to allow the credits mentioned and take the position that I should forthwith remit the amounts stated to you and waive my right to the credits mentioned.

I would thank you to advise me at once whether my interpretation of your letter is correct. If not, please advise me definitely on the point of whether the credits taken will be allowed and whether future credits on the same account will be approved by you.

Thanking you for an early reply,
Yours very truly,

(Signed) GEO. W. S., JR.,
Tax Collector, Brazoria County,
Texas.

(Copy)

Q. Did you receive reply to that letter, Mr. Sheffield?

A. Yes, sir.

Q. Is that (handing witness letter) the reply you got from the Comptroller's office?

A. (Examining letter.) Yes, sir, that is the reply.

Mr. McGill: We offer the letter in evidence—

The Chairman: The Clerk will read the letter—

Whereupon the Reading Clerk read the letter in question, which is as follows:

Comptroller of Public Accounts,
State of Texas,
Austin.

Feb. 11, 1930.

Mr. Geo. W. Sheffield, Jr., Tax Collector, Brazoria County, Angleton, Texas.

Dear Sir: Relative to our letter written you under date of January 14th, with which we enclosed opinion of the Attorney General regarding contract made by Mills-DeWitt Co., with the commissioners court of your county for the collection of delinquent taxes, I shall advise that for a long while it was the opinion of this department that there would be no question regarding commissions to be allowed on the regular delinquent taxes (not insolvent), so long as contract was made in compliance with the provisions of Article 7335. However, prior to the holding of the Attorney General with reference to the contract made in your county we received a letter from the Attorney General's Department withdrawing all opinions given to this department relative to contracts for the collection of delinquent taxes.

Our statement in letter of January 14th, instructing that you make no payments of commissions to the contracting parties from State taxes collected was that you might protect yourself in whatever way you deemed proper. In other words, that unless the money was remitted to the State you should hold it in escrow awaiting the court's decision in the matter. There is one case now on trial in Waco regarding delinquent contract for that county. Whether or not it will have any bearing on the

conditions applicable to your county, I do not know.

The attorney representing Mills-DeWitt Company was in the office and we understood from his conversation that he was going to bring suit relative to the contract in your county, and for that reason we thought proper for your own protection that you not make payments of the commissions until we have some court decisions in the matter.

We are hopeful that some decision will be rendered in the near future from which some definite understanding can be had with reference to commissions regarding collection of delinquent taxes, and under present or former holdings of the court we are not in a position to give definite instructions at this time, therefore we presume the proper advice would be that the amount claimed as commissions be held in escrow unless it should be remitted to the State. I am of the opinion that you would probably be enjoined, from remitting amount to the State, by the contracting parties until court decision could be had.

With kindest personal regards, I am,
Yours very truly,

(Signed) S. H. TERRELL,
Comptroller of Public Accounts.
Moulden/MJB

Q. Now, Mr. Sheffield, you have a copy of the contract entered into between Brazoria county and the Mills-DeWitt Company?

A. I do not with me.

Q. Is the original contract with that firm in the Comptroller's office?

A. No, sir. It is in the county clerk's office of Brazoria county at Angleton.

Q. Was a certified copy forwarded to the Comptroller's office?

A. A certified copy, yes, sir.

Mr. McGill: I will ask the Comptroller to produce the certified copy of that contract—

Q. Mr. Sheffield, what disposition has been made of the money due the Mills-DeWitt Company under that contract?

A. I have it in my possession in an escrow fund. I have it in a separate fund.

Q. In a bank?

A. Yes, sir; the county depository both for the State and county funds.

Q. Have you been threatened with suit by the Mills-DeWitt Company for that fund?

A. No, sir; I have been requested by them on several occasions to pay over to them that money, but I have refused

to do it without specific instructions from the Comptroller.

Q. Do you know whether or not there has been a suit filed against the Comptroller?

A. Yes, sir; in some court of Texas.

Q. In the nature of a mandamus proceeding?

A. Yes, sir.

Mr. McGill: I think that is all.

Whereupon, the witness was excused without cross-examination.

Thereupon, Miss Sue Ella Root was called by the House as the next witness, and being duly sworn by the Chairman, testified as follows on

Direct Examination.

By Mr. McGill:

Q. Your name is Miss Sue Ella Root?

A. Yes, sir.

Q. What is your occupation?

A. Mailing clerk.

Q. Working for the Comptroller?

A. Yes, sir.

Q. How long have you occupied that position?

A. Two years and eight months.

Q. Miss Root, I want to ask you what your duties were as mailing clerk in the Comptroller's office?

A. Receiving and opening all of the mail, assorting and delivering to the different divisions.

Q. All of the mail delivered to the Comptroller's office?

A. Yes, sir.

Q. I will ask you whether or not you received a letter addressed to the Texas Tax Records Company and receipted for it, a registered letter, and receipted for it on January 16, 1930?

A. I did.

Q. Is that the receipt you signed? Is that your signature there?

A. It is.

Q. Just why did you receive a letter addressed to the Texas Tax Records Company?

A. Well, the notice came to my office, and I carried it to the postoffice and the postmaster told me he thought it belonged to our department. And I had the notice, and he showed it to Mr. Terrell, and he told me it belonged to Mr. Bagby, and I received the package and held it until Mr. Bagby came.

Q. Does the Texas Tax Records Company receive other mail down there? Is this the only letter you received for them there?

A. The only letter.

Q. All you know about it is what Mr. Terrell told you?

A. That is all.

Mr. McGill: I want to introduce this receipt here.

The receipt was thereupon received in evidence and is as follows:

Return Receipt

Received from the postmaster the registered or insured article, the original number of which appears on the face of this card.

TEXAS TAX RECORD CO.

(Signature or name of addressee.)

SUELLA ROOT.

(Signature of addressee's agent.)

Date of delivery, 1-16-1930.

Mr. McGill: I introduce this receipt and the first letter there. They are attached together.

The letter was thereupon received in evidence and is as follows:

January 14, 1930.

Texas Tax Record Company, Austin, Texas.

Gentlemen: We wrote you on December 16, 1929, requesting information as to the names and addresses of the partners or stockholders in your company.

Will you be kind enough to let us have an immediate reply to our request?

Yours truly,

State Auditor.

ML:S

Q. Did you deliver that letter to Mr. Bagby?

A. I did not. I gave it to Mr. Terrell and I suppose he gave it to him.

Q. You do not know what he did with it?

A. I do not.

Mr. McGill: That is all.

Cross-Examination.

By Mr. McGregor:

Q. You don't know what became of that letter?

A. No, sir.

Q. Miss Root, what are your duties in that office?

A. Opening and assorting of all the mail, registering of checks, money orders, bills and currency.

Q. If a letter comes into that office, dealing with an inheritance tax matter, and you open it and find a check in the letter, now tell what you do with the letter and with the check?

A. I attach the check to the letter, register the check, and send it to the inheritance tax division.

Q. What do you mean by registering the check?

A. I register who it is from, the date, and where it is from, and where it goes.

Q. What it is for?
 A. What it is for.
 Q. What kind of a record is that registration in?
 A. A book.
 Q. Is that book down there at your desk?
 A. Yes, sir.
 Q. Now, to whom would that letter go in that office if it related to an inheritance matter?
 A. To Mr. McKay, John McKay.
 Q. If you received a letter with a check in it addressed to your department, check payable on oil or gross receipts, what would you do with it?
 A. I would send it to Mr. John Byrne.
 Q. Would you register the check?
 A. Register the check.
 Q. Just as you did the other check?
 A. Just as I did the other check, and send it to Mr. Byrne.
 Q. It is your business to register all checks or warrants for money that come to that office before you deliver it to a desk?
 A. Before I deliver it to any department.
 Q. Then, if your records are correctly kept, your record there will reflect all payments that are made into that office, won't it?
 A. It will.
 Q. You refused to accept this registered letter until you had spoken to Mr. Terrell about it?
 A. I didn't take it out of the post-office.
 Q. And he told you it belonged to Mr. Bagby?
 A. He did.
 Q. Was that the only one you ever received addressed to the Texas Tax Record Company?
 A. It is.
 Q. After you shall have registered a check or draft that comes to your desk, do you put any indicating mark on that draft or check to the effect that you have registered it?
 A. I did not.
 Q. You make no mark on it at all?
 Q. Then do you, in person, deliver those checks to the desk for which they are intended?
 A. No; I send them by the porter.
 Q. But your record shows they are received?
 A. It does.
 Q. It shows their receipt, the name of the payor, name of payee, amount of check, and what it is for—is that right?
 A. Yes, sir.
 Q. What kind of a record is that book, a pretty big one?

A. Yes, sir, a large one.
 Mr. McGregor: That is all, Miss Root.
 Mr. McGill: That is all.
 W. T. Carter, Jr., a witness in behalf of the House of Representatives, was thereupon called as a witness, and having been duly sworn by the Chairman, testified as follows:
 By Mr. McGill:
 Q. State your name to the committee.
 A. W. T. Carter, Jr.
 Q. You are connected with the State Auditor's office?
 A. Yes, sir.
 Q. Are you a certified public accountant?
 A. Yes, sir.
 Q. When were you certified?
 A. In November, 1926.
 Q. In Texas?
 A. Yes, sir.
 Q. How long have you been connected with the State Auditor's office?
 A. Started on November 25, 1929.
 Q. And you have been there continuously since?
 A. Yes, sir.
 Q. Now, Mr. Carter, I want to ask you with reference to a few items in connection with records that you have examined in the American National Bank in the account designated S. H. Terrell, Special. There is an item of \$83.33, which represents a check dated February 14, 1929. State, if you will, what investigation you made of that item and what it shows.
 A. In the examination of the check submitted to me by Mr. Terrell, the amounts drawn from this bank account, to make a list of the checks, I listed this item. The check was dated February 14, 1929. The check number was 100. The amount was \$83.33. It was made payable to E. J. Martin. The notation on the check was, one-half February salary, W. C. Rucker.
 Q. There is also a check dated April 8, 1929, for \$150.00? I would like you to explain what you found out with reference to that item.
 A. The check was dated April 8, 1929, check number 119. The amount was \$150.00. Check was made payable to E. J. Martin. In examining the endorsement on the back of the check it was endorsed by E. J. Martin, deposit to Texas Tax Record.
 Q. I will ask you with reference to another check dated August 1, 1929, for \$350.00. What did you find out with reference to that?
 A. Check dated August 1, 1929,

check number 153, amount \$350.00. Check was made payable to yourself, which means it is payable to the bank on which it was drawn. Down in the corner on the face of the check was the notation, for credit Texas Tax Record Company.

Q. (By Mr. McGregor): Was that a deposit or a check?

A. That was a check, sir.

Q. (By Mr. McGill): Now, I will ask you whose signature was on each and all of these checks you have testified about, who were they drawn by?

A. I am not familiar with the signatures. The checks were all signed S. H. Terrell, Special.

Q. And were drawn on a special fund in the American National Bank?

A. They were passed through the account entitled S. H. Terrell, Special, in the American National Bank.

Q. By that, you mean drawn on that account?

A. Drawn on that account and charged to that account by the bank.

Q. Now, Mr. Carter, did you make any investigation as to a check for \$662.13 that was deposited in that account?

A. I endeavored to secure as much information as possible about all the deposits in that account. I particularly asked Mr. Terrell to give information as to sources of moneys which went into this account. He refused to give me any information regarding the deposits. Other investigations from the bank's records, one of the deposits dated September 30, 1926, \$662.13, I traced that check to the bank's transit record and found that it was drawn on a bank in Sinton, Texas.

Q. Is that the check you refer to, Mr. Carter?

A. This is the first time I have seen this particular check, but this check bears teller's stamp which indicates it was deposited September 30, 1929, and bears an endorsement of the bank on that same date as the time it went through the clearing house.

Mr. McGill: I want to put that check in evidence, a photostatic copy. Is there objection to the photostatic copy of the check?

Mr. Keeling: No, there is not; but to save crossing, will you let all of the endorsements be read?

Mr. McGill: I will ask the clerk to read the check and all the endorsements and notations on it.

Mr. McGregor: What is the amount of that check?

Mr. McGill: \$662.13.

The check was thereupon received in

evidence and was read by the Reading Clerk, and is as follows:

No. 711

Sinton, Texas, Sept. 4, 1929.

Sinton State Bank

Pay to the order of A. P. Bagby, Pres. Tex. Tax Rec. Co. \$662.13.

Exactly Six Hundred Sixty Two Dollars Thirteen Cents.

Bal. Com. Tax Coll	662.13
Aug, 1929.	730.00

1392.13

C. R. PARK,
Tax Collector,
By A. P. Aikin, Dpy.

(Printed on check):

C. R. Park, Tax Collector, San Patricio County.

(Endorsed on back):

Pay to Mrs. Gladys Terrell, A. P. Bagby, Pres., Texas Tax Record Co.

Mrs. Gladys Terrell,
S. H. Terrell.

(Stamped on back):

Pay to the order of any Bank, Banker or Trust Co. All previous endorsements guaranteed. Sept. 30, 1929. American National Bank, Austin, Texas.

Pay to the order of Federal Reserve Bank of Dallas. May 6, 1929. All prior endorsements guaranteed. American National Bank, Austin, Texas.

Pay to the order of any Bank or Banker. Prior endorsements guaranteed. Sept. 30, 1929. San Antonio Branch Federal Reserve Bank of Dallas.

Mr. McGill: I understand counsel agrees to the introduction of all these checks Mr. Petsch has here?

Mr. McGregor: We don't agree to it. We don't object.

Mr. McGill: We offer in evidence these checks here, and ask the Reading Clerk to read them.

The checks were thereupon received in evidence, and were read by the Reading Clerk, and are as follows:

No. 611.

Sinton, Texas, April 5, 1929.

Sinton State Bank.

Pay to the order of A. P. Bagby \$482.10

Exactly Four Hundred Eighty Two Dollars Ten Cents Com Mar Coll.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park, Tax Collector, San Patricio County.

(Endorsed on back):

A. P. Bagby.

(Stamped on back):

Pay to the order of any bank or banker. (All prior endorsements guaranteed.) April 9, 1929. Commercial State Bank, Sinton, Texas.

Perforated stamp.

No. 627.

Sinton, Texas, May 3, 1929.

Sinton State Bank.

Pay to the order of A. P. Bagby
\$2,702.34

Two Thousand Seven Hundred Two Dollars Thirty Four Cents Exactly.

Costs Jan., Feby., Mar., April.

C. R. PARK,

Tax Collector.

(Printed on check):

C. R. Park, Tax Collector, San Patricio County.

(Endorsed on back):

Pay to the order of the Texas Tax Record Co., A. P. Bagby. Texas Tax Record Co., Per E. J. Martin, Secy., Tr.

(Stamped on back):

Pay to the order of any Bank, Banker or Trust Co. (Previous endorsements guaranteed.) May 6, 1929. American National Bank, Austin, Texas.

Pay to order of Federal Reserve Bank of Dallas. May 6, 1929. All prior endorsements guaranteed. American National Bank, Austin, Texas.

No. 663.

Sinton, Texas, June 17, 1929.

Sinton State Bank.

Pay to the order of Tax Record Co.
407.04

Exactly Four Hundred Seven Dollars Four Cents. May Coll on Del & Costs.

C. R. PARK,

Tax Collector.

By A. P. Aiken, Dty.

(Printed on check):

C. R. Park, Tax Collector, San Patricio County.

(Endorsed on back):

Texas Tax Record Co., per E. J. Martin, Secy-Treas.

(Stamped on back):

Pay to the order of any Bank, Banker or Trust Co. June 17, 1929. Previous endorsements guaranteed. American National Bank, Austin, Texas.

Recd. June 17, 1929. Austin National Bank, Austin, Texas.

Pay to the order of Federal Reserve Bank of Dallas. June 17, 1929. All prior endorsements guaranteed. American National Bank, Austin, Texas.

No. 662.

Sinton, Texas, June 3, 1929.

Sinton State Bank

Pay to the order of Tax Record Co.,
\$201.43

Exactly Two Hundred One Dollars Forty-Three Cents

May Coll Jno. Dist.

C. R. PARK,

Tax Collector.

By A. P. Aiken, Dty.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Texas Tax Record Co., per E. J. Martin, Secy-Treas.

(Stamped on back):

Pay to the order of any Bank, Banker or Trust Co. June 14, 1929. Previous endorsements guaranteed. American National Bank, Austin, Texas.

Recd. June 17, 1929. Austin National Bank, Austin, Texas.

Pay to the order of Federal Reserve Bank of Dallas. June 17, 1929. All prior endorsements guaranteed. American National Bank, Austin, Texas.

Perforated stamp.

No. 672.

Sinton, Texas, July 2, 1929.

Sinton State Bank

Pay to the order of Tax Record Co.
\$374.74

Exactly Three Hundred Seventy-Four Dollars Seventy-four Cents.

C. R. PARK,

Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Texas Tax Record Co., by A. P. Bagby.

(Stamped on back):

Pay to the order of any Bank or Banker. All prior endorsements guaranteed. 880556 Jul 3, 1929, 88-556 Commercial State Bank, Sinton, Texas.
Perforated Stamp.

No. 688.

Sinton, Texas, Aug. 5, 1929.

Sinton State Bank

Pay to the order of Texas Tax Record Co., \$457.25

Exactly Four Hundred Fifty-Seven Dollars Twenty-five Cents. Com. July, 1929.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Pay to A. P. Bagby, Tex. Tax Record Co. by A. P. Bagby, Pres.

A. P. Bagby.

(Stamped on back):

Pay to the order of any Bank or Banker. All prior endorsements guaranteed. 88-556 Jul. 5, 1929. Commercial State Bank, Sinton, Texas.
Perforated Stamp.

No. 730.

Sinton, Texas, Sept. 2, 1929.

Sinton State Bank

Pay to the order of Texas Tax Record Co. \$250.00

Exactly Two Hundred Fifty Dollars.
Comp. Sept. Coll.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Texas Tax Record Co., by A. P. Bagby.

(Stamped on back):

Pay to the order of any Bank or Banker. All prior endorsements guaranteed. 88-556 Sep. 20, 1929. 88-556 Commercial State Bank, Sinton, Texas.
Perforated stamp.

No. 757

Sinton, Texas, Oct. 19, 1929.

Sinton State Bank

Pay to the order of Texas Tax Record Co. \$125.00

Exactly One Hundred Twenty-five Dollars
Com. Oct.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Texas Tax Record Co., A. P. Bagby, Pres.

(Stamped on back):

Pay to the order of any Bank or

Banker. All prior endorsements guaranteed. 88-556 Oct. 22, 1929. 88-556 Commercial State Bank, Sinton, Texas.
Perforated Stamp.

No. 737

Sinton, Texas, Oct. 5, 1929.

Sinton State Bank

Pay to the order of Texas Tax Record Co. \$1,847.46

One Thousand Eight Hundred Forty-Seven Dollars, Forty-Six Cents Exactly.
Com. Sept. 1927

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Texas Tax Record Co., By A. P. Bagby, Pres.

(Stamped on back):

Pay to the order of any Bank or Banker. All prior endorsements guaranteed. 88-556 Oct. 5, 1929 88-556. Commercial State Bank, Sinton, Texas.
Perforated Stamp.

No. 799

Sinton, Texas, Sept. —, 1929.

Sinton State Bank

Pay to the order of A. P. Bagby, Texas Tax Rec. Co. \$730.00

Exactly Seven Hundred Thirty Dollars

Dec. Fees Aug.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

A. P. Bagby, Tax Record Co.

(Stamped on back):

Pay to the order of any Bank or Banker. All prior endorsements guaranteed. 88-556 Aug. 31, 1929. 88-556 Commercial State Bank, Sinton, Texas.

Pay to the order of any Bank or Banker. All prior endorsements guaranteed. 88-556 Sep. 2, 1929. 88-556 Commercial State Bank, Sinton, Texas.
Perforated stamp.

No. 761.

Sinton, Texas, Nov. 2, 1929.

Sinton State Bank

Pay to the order of Texas Tax Record Co., \$597.30

Exactly Five Hundred Ninety Seven
Dollars Thirty Cents
Oct. Com.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Texas Tax Record Co., by A. P. Bagby,
President.

(Stamped on back):

Pay to the order of any Bank or
Banker. All prior endorsements guar-
anteed. 88-556 Nov. 3, 1929. Commer-
cial State Bank, Sinton, Texas.

Perforated stamp.

No. 762.

Sinton, Texas, Nov. 7, 1929.

Sinton State Bank

Pay to the order of Texas Tax Record
Co., \$1,279.41

Exactly One Thousand Two Hundred
Seventy-Nine Dollars Forty-one Cents.
Oct. Com.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Pay to A. P. Bagby, Texas Tax Record
Co., by A. P. Bagby, Pres.

(Stamped on back):

Pay to the order of any Bank or
Banker. All prior endorsements guar-
anteed. 88-556 Nov. 7, 1929. 88-556
Commercial State Bank, Sinton, Texas.

Perforated stamp.

No. 782.

Sinton, Texas, Dec. 2, 1929.

Sinton State Bank

Pay to the order of A. P. Bagby,
\$650.00

Exactly Six Hundred Fifty Dollars
No Cents.

A. W. Com Nov.

C. R. PARK,
Tax Collector.
By A. P. Aiken.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

A. P. Bagby.

(Stamped on back):

Pay to the order of any Bank or
Banker. All prior endorsements guar-
anteed. 88-556 Dec. 2, 1929. 88-556
Commercial State Bank, Sinton, Texas.

Perforated stamp.

No. 802.

Sinton, Texas, Dec. 5, 1929.

Sinton State Bank

Pay to the order of A. P. Bagby, Pres.
Texas Tax Rec. Co., \$718.82

Exactly Seven Hundred Eighteen Dol-
lars Eighty-two Cents.

Bal. Nov. Com.

C. R. PARK,
Tax Collector.

By A. P. Aiken, Dty.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

A. P. Bagby, Pres. Tax Record Co.

(Stamped on back):

Pay to the order of any Bank or
Banker. All prior endorsements guar-
anteed. 88-556 Dec. 6, 1929. 88-556.
Commercial State Bank, Sinton, Texas.

Perforated stamp.

No. 807.

Sinton, Texas, Dec. 21, 1929.

Sinton State Bank

Pay to the order of Texas Tax Record
Co., \$350.00

Exactly Three Hundred Fifty Dollars.
Dec. Com.

C. R. PARK,
Tax Collector.

(Printed on check):

C. R. Park,
Tax Collector,
San Patricio County.

(Endorsed on back):

Texas Tax Record Co., by A. P. Bagby,
Pres.

(Stamped on back):

Pay to the order of any Bank or
Banker. All prior endorsements guar-
anteed. 88-556 Dec. 23, 1929. 88-556
Commercial State Bank, Sinton, Texas.

Perforated stamp.

Mr. Keeling: I just want to ask this
question. You want to show the total
received to the Texas Tax Record Com-
pany?

Mr. McGill: I think that is correct,
yes, sir.

Mr. Keeling: That is what you want
to show?

Mr. McGill: Yes, sir.

Mr. Keeling: Does that represent the
gross? Are deductions made therefrom
for hiring lawyers and the expenses for
running the machinery for collecting
that? I just wanted to know if it is
the gross total?

Mr. McGill: We don't know. Mr.
Bagby is here.

Mr. Keeling: You are just showing the gross total?

Mr. McGill: Yes, sir; we are just showing what we can find.

Mr. Petsch: The gross total of these checks which have been read in evidence amounts to \$11,835.02. In order to get these figures before the committee, I just want to call attention to the fact that yesterday the testimony showed that the contract was supplemented to the extent that this Texas Tax Record Company received an additional twenty-five per cent, twenty-five per cent of the amount of taxes they collected for the State. This contract had been running for several months, and up to the time the supplement was made, April 23, 1929, the Texas Tax Record Company received \$618.86. That is one check. That is a deduction which the tax collector of San Patricio county was permitted to make from the amount of his remittance to the State at that time. That is not included in these checks that have been read, and in order to get the whole amount that should be added to it, \$618.86. Now by virtue of the addition of this twenty-five per cent the total amount that the State has been out, in addition to the sum of \$618.86, is the \$3430.11. That is the amount that the State has been out.

Mr. McGregor: You make the statement that it is agreed. Agreed by whom?

Mr. Petsch: We understood it was agreed that these records—

Mr. McGregor: No, we didn't agree. We don't agree to anything. We just don't object.

Mr. McGill: We don't care to introduce all these records, but we do want the right to read from them.

Mr. McGregor: We haven't objected to it.

Mr. McGill: We will read the certified copy of the charter of the Texas Tax Record Company.

The certified copy of the charter of the Texas Tax Record Company was thereupon received in evidence and was read by the reading clerk, and is as follows:

The State of Texas,
County of Travis.

Know All Men by These Presents:

That we, A. P. Bagby, Gladys M. Terrell and E. J. Martin, citizens of Travis county, Texas, do hereby voluntarily associate ourselves together for the purpose of forming a private corporation, under, by virtue of and according to the laws of the State of Texas,

the terms and conditions thereof being as follows:

1.

The name of this corporation is The Texas Tax Record Company.

2.

The purpose for which it is formed is to make, compile and own abstracts of title to lands, and liens of all character on any property, or any other abstracts of record in this State, or county thereof, and the compiling of delinquent tax records as liens on real estate provided for by law.

3.

The place where the business of the corporation is to be transacted is at Austin, Texas.

4.

The term for which it shall exist is fifty years.

5.

The number of directors shall be three, and their names and postoffice addresses are as follows:

Name.	Postoffice Address.
A. P. Bagby	Austin, Texas
Gladys M. Terrell	Austin, Texas
E. J. Martin	Austin, Texas

6.

The amount of capital stock is Four Thousand (\$4,000.00) Dollars, divided into Forty Shares of One Hundred (\$100.00) Dollars, each, all of which capital stock has been subscribed and Two Thousand (\$2,000.00) Dollars paid in, as shown by affidavit hereto attached.

In testimony whereof, we hereunto sign our names this 18th day of December, A. D. 1928.

A. P. BAGBY
GLADYS M. TERRELL
E. J. MARTIN

The State of Texas
County of Travis

Before me, the undersigned authority, on this day personally appeared A. P. Bagby, Gladys M. Terrell and E. J. Martin, known to me to be the persons whose names are subscribed to the foregoing instrument, and each acknowledged to me and he and she executed the same for the purposes and consideration therein expressed.

In testimony whereof, I hereunto subscribe my name and affix the seal of

my office this 18th day of December,
A. D. 1928.

EMMA WILLMAN,
Notary Public in and for Travis
County, Texas.

(Seal)

The State of Texas
County of Travis

Before me, the undersigned authority,
on this day personally appeared A. P.
Bagby, Gladys M. Terrell and E. J.
Martin, known to me, who, having first
being duly sworn, on oath, say, each
for themselves:

1.

That they are the identical parties
who executed the charter of the Texas
Tax Record Company, as incorporated,
and that all of them are bona fide citi-
zens of the State of Texas.

2.

That the full amount of the capital
stock of said corporation, as therein
represented, has been in good faith sub-
scribed and the sum of Two Thousand
(\$2,000.00) Dollars paid in cash.

3.

That said sum was paid, as follows,
towit: The sum of Two Thousand
(\$2,000.00) in cash.

4.

That the following are the names,
residences and post office addresses of
the persons subscribing to the capital
stock:

Name	Residence	Post Office Addresses
A.P. Bagby	Austin, Texas	Austin, Texas
Gladys M. Terrell	Austin, Texas	Austin, Texas
E. J. Mar- tin	Austin, Texas	Austin, Texas

5.

That the amount subscribed by each,
and the amount paid by each, in their
respective equities or proportionate in-
terests in the contract hereinbefore re-
ferred to, is as follows:

Names	Amount	
	Subscribed	Paid
A. P. Bagby.....	\$1,400.00	\$700.00
Gladys M. Terrell..	1,300.00	700.00
E. J. Martin.....	1,300.00	600.00

A. P. BAGBY
E. J. MARTIN

Subscribed and sworn to before me

this the 18th day of December, A. D.
1928.

EMMA WILLMAN,
Notary Public in and for Travis
County, Texas.

(Seal)

(Endorsed):

No. 52862

Charter of

The Texas Tax Record Company,
Austin, Texas.

Capital Stock \$4,000.00.

Filing Fee \$50.00

Franchise 6-1-29 3.64

Remarks 50 years.

40 Shares, \$100.00 each.

50% paid.

Filed in the office of the Secretary of
State this 20 day of Dec., 1928. Jane
Y. McCallum, Secretary of State.

No. 17440.

The State of Texas.
Department of State.

I, Jane Y. McCallum, Secretary of
State, of the State of Texas, do hereby
certify that the foregoing is a true and
correct copy of the charter and support-
ing affidavit of the Texas Tax Record
Company with the endorsement thereon,
as now appears of record in this depart-
ment.

In testimony whereof, I have hereunto
signed my name officially and caused to
be impressed hereon the Seal of State
at my office in the city of Austin, this
4 day of January, A. D. 1930.

JANE Y. McCALLUM,

(Seal)

Secretary of State.

Mr. McGill: We now offer the fran-
chise report. We now offer photostatic
copy of the franchise tax report of the
Texas Tax Record Company for the year
1928.

The report was thereupon received in
evidence, was read by the Reading Clerk,
and is as follows:

Franchise Tax Report.
Domestic Corporations.

This report is due in the office of the
Secretary of State, Austin, Texas, before
March 15, 1929.

This report shows the condition of
your corporation December 31, 1928.

Name of corporation: Texas Tax Rec-
ord Co.

Principal place of business: Austin,
Texas.

The authorized capital stock of this
corporation is \$4,000.00.

The amount of capital stock actually
paid on December 31, 1928, was \$2,000.

The amount of surplus and undivided profits on December 31, 1928, was none. Total, \$2,000.00.

The officers of this corporation and their addresses are:

Name, Address, Office:

A. P. Bagby, Austin, Texas, President.

Gladys M. Terrell, Austin, Texas, Vice Pres.

E. J. Martin, Austin, Texas, Secretary.

E. J. Martin, Austin, Texas, Treasurer.

The directors of this corporation and their addresses are:

Name, Address:

A. P. Bagby, Austin, Texas.

Gladys M. Terrell, Austin, Texas.

E. J. Martin, Austin, Texas.

The amount of bonded, mortgaged and other indebtedness on December 31, 1928, was none.

The amount of the last annual dividend was none.

I, E. J. Martin, being Secretary-Treasurer of the above corporation, for which this report is made, do solemnly swear that the above statements are true and correct.

E. J. MARTIN.

Subscribed and sworn to before me, this 29 day of June, 1929.

EMMA WILLMAN,

Notary Public, Travis County.

(Seal)

Compute the amount of tax due before mailing this report.

The State of Texas.
Department of State.

I, Jane Y. McCallum, Secretary of State, of the State of Texas, do hereby certify that the foregoing is a true and correct copy of the franchise tax report for the year ending December 31, 1928, of the Texas Tax Record Company with the endorsements thereon, as now appears of record in this department.

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in the city of Austin, this 6 day of January, A. D. 1930.

JANE Y. McCALLUM,

(Seal)

Secretary of State.

Mr. McGill: We now offer in evidence photostatic copy of pay warrant dated April 30, 1929, to E. J. Martin; photostatic copy of pay warrant dated December 31, 1928, payable to E. J. Martin; and photostatic copy of pay warrant, dated December 31, 1928, to A. P. Bagby. Is there objection?

The three pay warants were thereupon

received in evidence, were read by the Reading Clerk, and are as follows:

General Revenue. No. 61833.

State Comptroller of Public Accounts.
Treasury Warrant.

Austin, Texas, April 31, 1929.

The Treasurer of the State of Texas will pay to the order of E. J. Martin \$229.16

Two Hundred Twenty Nine & 16/100 Dollars out of any money appropriated by an act of the Texas State Legislature in the year A. D. 1927.

Appropriation No. L-648-Mc. Account of Salary, being for Comptroller.

W. GREGORY HATCHER,
State Treasurer.

S. H. TERRELL,
State Comptroller of Public Accounts.

(Endorsed on back):

Credit the acct. of E. J. Martin. E. J. Martin.

(Stamped on back):

Recd. May 1, 1929. American National Bank, Austin, Texas.

Paid Austin Clearing House. May 2, 1929. American National Bank.

Stamped "Paid" with perforation.

General Revenue. No. 28145.

State Comptroller of Public Accounts.
Treasury Warrant.

Austin, Texas, December 31, 1928.

The Treasurer of the State of Texas will pay to the order of E. J. Martin \$229.16

Two Hundred Twenty Nine & 16/100 Dollars out of any money appropriated by an act of the Texas State Legislature in the year A. D. 1927.

Appropriation No. L-648-Mc. Account of Salary, being for Comptroller.

W. GREGORY HATCHER,
State Treasurer.

S. H. TERRELL,
State Comptroller of Public Accounts.

(Endorsed on back):

E. J. Martin.

(Stamped on back):

Recd. Dec. 22, 1928. American National Bank, Austin, Texas.

Paid Austin Clearing House. Jan. 7, 1929. American National Bank.

Stamped "Paid" with perforation.

General Revenue. No. 28162.

State Comptroller of Public Accounts.
Treasury Warrant.

Austin, Texas, December 31, 1928.

The Treasurer of the State of Texas

will pay to the order of A. P. Bagby \$175.00

One Hundred Seventy Five & 00/100 Dollars out of any money appropriated by an act of the Texas State Legislature in the year A. D. 1927.

Appropriation L-651-Mc. Account of Salary, being for Comptroller.

W. GREGORY HATCHER,
State Treasurer.

S. H. TERRELL,
State Comptroller of Public Accounts.

(Endorsed on back):

A. P. Bagby.

(Stamped on back):

Paid through Austin Clearing House.
Dec. 27, 1928.

Stamped "Paid" with perforation.

Mr. McGill: We don't care to ask Mr. Carter any more questions on that particular phase. We may want to recall him on another phase of the case later on. With that understanding we will turn him over for cross examination.

Mr. McGregor: Stand aside.

Mr. McGill: We now offer in evidence a letter to Hon. C. S. Park, tax collector, Sinton, Texas, dated April 23, 1929, signed S. H. Terrell, Comptroller.

The letter was thereupon received in evidence, and was read by the Reading Clerk, and is as follows:

Comptroller of Public Accounts.
State of Texas.
Austin.

S. H. Terrell, Comptroller.
J. M. Edwards, Chief Clerk.

April 23, 1929.

Honorable C. R. Park, Tax Collector,
Sinton, Texas.

My Dear Sir: This will acknowledge receipt of your letter of the 22nd inst., quoting excerpt from a contract of date December 10, last, entered into by your commissioners court with a company for the collection of delinquent taxes, as follows:

"For the assistance in the collection of both State and county taxes, penalties and interest, is hereby authorized and approved by this court, provided that said Texas Tax Record Company shall receive an amount equal to twenty-five per cent of the collection of delinquent taxes under the provision of said contract, to be paid out of the proceeds of said collections, from property unknown or unrendered."

You will note that no provision was made for payment of proportional part of the State delinquent taxes collected,

therefore, to correct this error, the court passed an order at its regular term, April 1, 1929, providing that said contracting corporation should receive an equal proportionate amount out of the State delinquent taxes collected, as follows:

"Now, therefore, it is ordered, adjudged and decreed that a supplemental and amendatory contract is this day hereby entered into, allowing said company a further compensation at the same rate contracted to be paid by the county, to be paid only out of State delinquent taxes collected, otherwise the original contract herein referred to shall remain in full force and effect."

Under the quotations above set forth you inquire as to whether you would be authorized to make deduction of the specified compensation on account of said delinquent tax collections from the date of the contract to April 1, taking credit for same on your monthly report for the month of April.

I respectfully advise that in as much as it appears that the contract was entered into for the collection of both State and county taxes, and that the subsequent order passed by the court was for the purpose of correcting said instrument that you are fully authorized under the terms of said order to make such deduction and take credit therefor.

In support of this position, I respectfully refer you to the cases of Cherokee County vs. A. R. Odem et al., and Madison County vs. Wallace, decided by our State Supreme Court on March 20, last.

Trusting that this information will serve your purpose, and assuring you that it is a pleasure to serve you at any time, I am with best wishes,

Yours very truly,

S. H. TERRELL,
State Comptroller of Public Accounts.
SHT/ms

Mr. McGill: I want to offer certified copy of order of the commissioners court of San Patricio county, dated December 21, 1928.

The instrument was thereupon received in evidence, and was read by the Reading Clerk, and is as follows:

Order of Commissioners' Court.

December 21, 1928.

The State of Texas,
County of San Patricio.

Know All Men by These Presents:

Whereas, the Commissioners' Court of San Patricio County, Texas, has determined the necessity for the making and

to have made an abstract of property assessed, or unknown and unrendered for the purposes of taxation, and upon which taxes are delinquent; and, whereas, after making an investigation of The Texas Tax Record Company, of Travis County, Texas, a corporation duly organized, incorporated and existing under the laws of the State of Texas, acting by and through its duly authorized and acting president, A. P. Bagby, and from recommendations received by said Court, it has been determined and found that the said The Texas Tax Record Company, its officers and representatives, have the necessary technical knowledge, experience and ability to properly perform said work, said court has determined to employ the said company, and does employ such, to make the necessary abstract of property assessed, or unknown and unrendered, as provided by Chapter 21, Acts of the Third Called Session of the Thirty-eighth Legislature, 1923. (R. S. 1925, Article 7335.)

Now, therefore, to accomplish said purpose hereinbefore recited, this agreement is made by and between San Patricio County, Texas, hereinafter styled party of the first part, and said The Texas Tax Record Company, hereinafter styled party of the second part. Therefore, this instrument witnesseth: The party of the first part agrees to employ, and does employ second party to make a complete abstract of property assessed, or unknown and unrendered, upon which taxes are delinquent, or may become delinquent during the life of this instrument, for purposes of taxation; that said abstract shall cover all real property of every character from 1908, including said year; 1909; 1910; 1911; 1912; 1913; 1914; 1915; 1916; 1917; 1918; 1919; 1920; 1921; 1922; 1923; 1924; 1925; 1926; 1927; and 1928; and to February 1, 1929, inclusive, assessed or unknown and unrendered, and upon which taxes are now delinquent, and for any other and further period during the life of this instrument where taxes may become delinquent, assessed or unknown and unrendered and past due. In addition to the above service, the second party shall assist the county attorney of San Patricio County in the preparation of all petitions and exhibits in suits for the collection of all such delinquent real estate taxes in said county, and shall render all necessary assistance to each of the other officers of such county, to the end that all delinquent real estate taxes assessed or unknown and unrendered now due said county, or which may hereafter become due during the existence of this contract, may be col-

lected, and where collections are not made to reduce same to judgment and sale; but, the compensation herein provided is for the particular service of preparing said abstract of property assessed, unknown or unrendered. For said services of second party in performing the above services, and to enable second party to perform said services and to furnish all material and supplies necessary to complete said work, there shall be paid to the said second party out of County General Fund delinquent taxes, collected from property assessed or unknown and unrendered, a sum of money equal to twenty-five per cent of all said delinquent taxes, penalties and interest, contingent upon delinquent taxes, collected, such compensation to be paid only out of the collection of delinquent county taxes, penalties and interest thereon, and it is agreed that each individual collection of taxes shall bear its part of the expense of collection; that is to say, the amount of compensation to be received by second party shall be definitely fixed to be an amount equal to twenty-five per cent County General Fund delinquent taxes, penalties and interest on property assessed or unknown and unrendered, and such amount shall be paid out of each individual collection made, such payments, however, to be made on the second Monday of each month from and after date of this contract, and shall be based on a report signed by the County Tax Collector of San Patricio County, showing the amount of taxes collected during the previous month, together with the penalty and interest thereon. This contract shall exist for a period of twenty months from the date of the approval hereof.

Witness our hands in duplicate this the 21st day of December, A. D. 1928.

SAN PATRICIO COUNTY, TEXAS,
First Party.

J. C. Russell, County Judge.
R. E. Moore, Com. Prct. No. 1.
C. C. Smith, Com. Prct. No. 2.
J. E. Dawson, Com. Prct. No. 3.
W. L. Hilliard, Com. Prct. No. 4.

Attest:

(Seal) J. A. MATTHEWS,
County Clerk, San Patricio County,
Texas.

THE TEXAS TAX RECORD COMPANY,
Second Party.

By A. P. Bagby, President.

Attest:

E. J. MARTIN,
Secretary-Treasurer.

The State of Texas,
County of San Patricio.

I, J. A. Matthews, Clerk of the County Court in and for said County and State, do hereby certify that the foregoing is a full, true and correct copy of a certain Order, passed by the Commissioners' Court of San Patricio County, Texas, on the 21st day of December, 1928, as the same appears on file among the papers in said cause and of record in Commissioners' Court Minutes, Vol. 6, pp. 560-561. San Patricio County, Texas.

Witness my hand and Seal of the County Court of said County, at office in Sinton, Texas, this the 30th day of December, A. D. 1929.

J. A. MATTHEWS,
Clerk County Court, San Patricio
County, Texas.

By MINERVA HARDEMAN,
(Seal) Deputy.

Mr. Purl of Dallas: Mr. Chairman, if I know myself, I think I would be just as anxious as any man here for Mr. Terrell not to sacrifice any of his rights. I wonder if the attorneys for both sides can't agree for these matters to be put in the record without our having to have all of such documents read. I imagine that as to certain documentary evidence that is necessary to make a record both of them will agree for it to be put in the record. I make that suggestion just in the interest of time. There are three or four more, and we could waive the reading of them, and they could be put in the record.

The Chairman: That is for the attorneys for the House to say.

Mr. Prendergast of Harrison: I want them all read.

Mr. Purl of Dallas: I imagine they are all pretty much alike.

Mr. McGill: They are somewhat different.

The Chairman: Some of the members want them read.

Mr. McGill: I offer order of the commissioners court of San Patricio county, of the same date, December 21, 1928.

The document was thereupon received in evidence, and was read by the Reading Clerk, and is as follows:

Order of the Commissioners Court.

December 21, 1928.

That, whereas, on the 10th day of December, A. D. 1928, the commissioners court of San Patricio county, Texas, authorized, by an order duly entered, a certain contract for the compiling of

delinquent tax records and assisting the county tax collector, district clerk, county attorney and sheriff in the matter of the collection of delinquent taxes, both State and county, and the assistance of the collection of such, by suit, or otherwise, and providing for the payment of an amount equal to twenty-five per cent of such tax collections as compensation to said Bagby for his services; and further providing for his giving a bond in the sum of \$10,100.00; it is therefore, ordered that said order of court be, and the same is hereby, revoked and this order is now substituted in lieu thereof, as follows: It is ordered, adjudged and decreed by this court, that whereas, the Texas Tax Record Company, of Austin, Travis county, Texas, a corporation duly incorporated and organized under the laws of the State of Texas, and A. P. Bagby, its duly authorized and acting president, have been investigated by this court and found to be capable of rendering expert services in the matter of properly compiling delinquent tax records for this county, and rendering assistance to the county tax collector, district clerk, county attorney and sheriff in the matter of assisting in collection of such taxes, a contract with said company for the assistance in collecting both State and county taxes, penalties and interest, is hereby authorized and approved by this court, provided that said the Texas Tax Record Company shall receive an amount equal to twenty-five per cent of the collection of delinquent taxes under the provisions of said contract to be paid out of the county general fund delinquent taxes collected from property assessed, or unknown and unrendered. However, it is especially agreed and understood that the compensation herein provided for shall be paid only out of county general fund delinquent taxes, penalty and interest thereon; provided, further, that the said the Texas Tax Record Company furnish a good and sufficient bond in the sum of ten thousand dollars, payable to the county judge, and his successors in office, provided that said bond be submitted to this court, on or before January 1, 1929.

Witness our hands at Sinton, Texas, this the 21st day of December, A. D. 1928.

J. C. RUSSELL,
County Judge.

R. E. MOORE,
Commissioner Precinct No. 1.

C. C. SMITH,
Commissioner Precinct No. 2

J. E. DAWSON,
Commissioner Precinct No. 3.
W. L. HILLIARD,
Commissioner Precinct No. 4.

(Seal)
Attest:

J. A. MATTHEWS,
County Clerk,
San Patricio County, Texas.

The State of Texas,
County of San Patricio.

I, J. A. Matthews, clerk of the county court in and for said county and State, do hereby certify that the foregoing is a full, true and correct copy of a certain order, passed by the commissioners court of San Patricio county, Texas, on December 21, 1928, as the same appears on file among the papers in said cause and of record in commissioners court minutes, Vol. 5, pp. 562, San Patricio county, Texas.

Witness my hand and seal of the county court of said county, at office in Sinton, Texas, this the 15th day of February, A. D. 1930.

J. A. MATTHEWS,
Clerk County Court, San Patricio
County, Texas.

By MINERVA HARDEMAN
(Seal) Deputy.

Mr. McGill: Now, I offer the Order of the Commissioners Court of San Patricio county, dated April 8, 1929.

(The said paper was marked "Ex. 58" and was read by the Reading Clerk, as follows, to wit):

"April 8, 1929.

"The State of Texas,)
County of San Patricio)

Order of Commissioners' Court.

April Term, A. D. 1929.

Whereas, on the 21st day of December, A. D. 1928, the commissioners court of San Patricio county, Texas, by an order duly entered, did enter into a certain contract with the Texas Tax Record Company, a corporation duly incorporated and existing under the laws of the State of Texas, employing said company to assist the county tax collector, district clerk, county attorney and sheriff in the matter of collecting delinquent taxes, both State and county, and to compile a delinquent tax record for said county, and providing for the payment of an amount equal to twenty-five per cent of said delinquent tax collections, to be paid out of the county general fund delinquent taxes, as compensation for said services, and whereas, from representations made, it appears that a vol-

uminous amount of work devolves upon the contracting company, under existing conditions, and not anticipated at the time of making the original contract, and necessary to properly clear the tax records of the county: Now, therefore, it is ordered, adjudged and decreed that a supplemental and mandatory contract is this day hereby entered into, allowing said company the further compensation at the same rate contracted to be paid by the county, to be paid only out of State taxes collected, otherwise the original contract herein referred to shall remain in full force and effect.

In testimony whereof, we hereunto sign our names in our respective capacities, at Sinton, Texas, this 8 day of April, A. D. 1929.

J. C. HOUTS,
County Judge.

R. E. MOORE,
Commissioner Precinct No. 1.

C. C. SMITH,
Commissioner Precinct No. 2.

J. E. DAWSON,
Commissioner Precinct No. 3.

W. L. HILLIARD,
Commissioner Precinct No. 4.

Attest:

J. A. MATTHEWS, County Clerk.
(Seal)

Signed on the part of the Texas Tax Record Company, at Sinton, Texas, this the . . . day of April, A. D. 1929.

THE TEXAS TAX RECORD
COMPANY,

Per A. P. Bagby, President.

Attest:

E. J. MARTIN, Secretary-Treasurer.

The State of Texas,)
County of San Patricio)

I, J. A. Matthews, clerk of the county court in and for said county and State, do hereby certify that the foregoing is a full, true and correct copy of a certain order, passed by the commissioners court of San Patricio county, Texas, on April 8, 1929, as the same appears on file among the papers in said cause and of record in commissioners court minutes, Vol. 6, pp. 611, San Patricio County, Texas.

Witness my hand and seal of the county court of said county, at office in Sinton, Texas, this the 30th day of December, A. D. 1929.

J. A. MATTHEWS,
Clerk County Court San Patricio County,
Texas.

(Seal)

By MINERVA HARDEMAN, Deputy."
(Endorsed): "Certified Copy" Order
of Commissioners' Court." "Ex. 58."

Mr. McGill: We now offer the order of the commissioners court of San Patricio county, dated December 9, 1929.

(The said paper was marked "Exhibit 59" and was read by the Reading Clerk as follows, to wit):

"The State of Texas,)
County of San Patricio)

Be it remembered that on this 9th day of December, A. D. 1929, there was held a regular term of the commissioners court of San Patricio county, Texas, at the court house in the town of Sinton, Texas.

J. C. Houts, County Judge; R. E. Moore, Commissioner Precinct No. 1; C. C. Smith, Commissioner Precinct No. 2; J. E. Dawson, Commissioner Precinct No. 3; W. L. Hilliard, Commissioner Precinct No. 4, and J. A. Matthews, County Clerk,

Being present, when the following proceedings were had, to wit:

In the matter of the collection of delinquent taxes.

Whereas, this court did on the 10th day of December, A. D. 1928, enter into contract with Texas Tax Record Company employing said company to collect all delinquent taxes shown by the tax records to be due said county which said contract is entered in the minutes of this court in Minute Book, Vol. 6, pages 562-3.

And whereas, on account of the condition of the tax records of said county a great deal more work has been required than was contemplated when said contract was entered into, such extra work being made necessary by reason of the fact that much of the property of the county for some years had been doubly assessed, in many instances tax receipts had been issued and delivered to the taxpayer the taxes unreported to the county and the property remaining on the delinquent rolls, and on account of other errors in said rolls;

And whereas, it is made to appear to the court that the employes of said company have expended much time and labor in correcting the tax rolls of said county, to the end that all property upon which the taxes are fully paid be eliminated from the delinquent rolls, and that cancellation certificates be issued in all proper cases;

And whereas, the correction of said rolls will be a benefit to the taxpayers of the county and to the public generally, though such work was not con-

templated in the execution of the original contract hereinabove referred to;

It is therefore ordered by the court that this order be made supplemental to the aforesaid original contract, and that for the services rendered and to be rendered by said company it shall receive and retain compensation for all cancellation certificates issued as a result of its work, a fee in the sum of 12½ percentum of the amount represented by the tax rolls as the delinquency;

It is further ordered that such compensation shall be retained by the company out of the funds collected as delinquent taxes, and not to be allowed out of the general or any special fund from the treasury.

It is further ordered that the entry of this order upon the minutes of the court shall be regarded as a supplemental contract between the county and said company.

J. C. HOUTS,
County Judge.

J. E. DAWSON,
Commissioner Precinct No. 3.
R. E. MOORE,
Commissioner Precinct No. 1.
C. C. SMITH,
Commissioner Precinct No. 2.
W. L. HILLIARD,
Commissioner Precinct No. 4.

(Seal)

Attest:

J. A. MATTHEWS, County Clerk.

The State of Texas,)
County of San Patricio)

I, J. A. Matthews, clerk of the county court in and for said county and State, do hereby certify that the foregoing is a full, true and correct copy of a certain order, passed by the commissioners court of San Patricio county, Texas, on December 9, 1929, as the same appears on file among the papers in said cause and of record in commissioners court minutes, Vol. 7, pages 32-33, San Patricio county, Texas.

Witness my hand and seal of the county court of said county at office in Sinton, Texas, this the 30th day of December, A. D. 1929.

J. A. MATTHEWS,
Clerk County Court,
San Patricio County, Texas.

(Seal)

By FLOSSIE GORE, Deputy."

(Endorsed): "Certified Copy." Order of commissioners court. Ex. 59.)

Mr. McGill: Call Mr. Turner.

Mr. Keeling: May I just ask, in that connection, if that is the last order of

the commissioners court there, is that order still in full force and effect according to the records?

Mr. McGill: The one of December?

Mr. Keeling: The order just read.

Mr. McGill: I don't know, I am not positive as to that, Mr. Keeling—I don't know whether it is or not; I think it has been canceled, Mr. Keeling.

Mr. Keeling: All right.

H. A. Turner was thereupon called as a witness in behalf of the House of Representatives, and having been duly sworn by the Chairman, testified as follows:

Direct Examination.

Questions by Mr. McGill:

Q. Please state your name to the Committee.

A. H. A. Turner.

Q. Where do you live and what is your occupation, Mr. Turner?

A. I live in Austin. I am cashier of the Texas Bank & Trust Company.

Q. As cashier of that bank, are you familiar with the records of the bank?

A. Yes, sir, reasonably.

Q. I will ask you whether or not the records of your bank show an account in the name of S. H. Terrell, Comptroller?

A. Yes, sir.

Q. Is that a record of that account (showing witness paper)?

A. It is.

Q. Now, what date was that account opened, according to the record, Mr. Turner?

A. September 23, 1925.

Q. I will ask you whether or not it shows a deposit of \$775.94, dated September 23, 1925?

A. It does.

Q. That was the first deposit in the account, wasn't it?

A. Yes, sir.

Q. Does it show a deposit dated October 14, 1925, of \$1472.80?

A. Yes, sir.

Q. Does it show a deposit dated March 19, 1926, of \$140.40?

A. Yes, sir.

Q. And of June 5, 1925, \$6,609.28?

A. Yes, sir.

Q. And of August 19, 1926, \$200.00?

A. Yes, sir.

Q. And of September 30, 1926, \$100.00?

A. Yes, sir.

Q. What is the total—I mean de-

posits, total amount of deposits, have you that?

A. \$9,298.42.

Q. Do you have the original deposit slips—

A. Yes, sir.

Q. —of each deposit in that account?

A. Yes, sir.

Mr. McGill: We want to offer the original deposit slips in evidence, with the understanding that we will have photostatic copies of them made and have the originals returned to Mr. Turner. He is not willing to part with them. We now offer these deposit slips.

(The deposit slips above identified by the witness were marked Exhibits 60 to 65, inclusive, and photostatic copies thereof are attached to the transcript of the testimony.)

Q. These are deposit slips representing each deposit of that account?

A. Yes, sir.

Q. In the order in which I named them?

A. Yes, sir.

Q. Are you familiar with the signature of Mr. Terrell?

A. Well, I have seen it for a number of years.

Q. Are you able to identify it?

A. I wouldn't say that I would want to pass as an expert in identifying his signature.

Q. Do you have with you the original card by which that account, S. H. Terrell, Comptroller, was started?

A. No, sir.

Q. You don't have that?

A. No, sir.

Q. All right?

Mr. McGill (to reading clerk): Read those deposit slips.

The reading clerk thereupon read the deposit slips identified by the witness, as follows, to-wit:

Texas Bank & Trust Company. Deposited by S. H. Terrell, Comptroller, Austin, 9/23/25, \$775.94.

Texas Bank & Trust Company. Deposited by S. H. Terrell, Comptroller, Special, Austin, Texas, 10/14/25, checks, \$1472.80.

Texas Bank & Trust Company. Deposited by S. H. Terrell, Comptroller, Special, Austin, Texas, no date, check 2001, 2/24/26, \$140.40.

Texas Bank & Trust Company. Deposited by S. H. Terrell, Comptroller, Special, Austin, Texas, 6/6/25, S. C. O. No. 8020, \$4,599.03; S. C. O. Company, No. 8172, \$2010.25; total, \$6,609.28.

Texas Bank & Trust Company. Deposited by S. H. Terrell, Comptroller, Austin, Texas, 8/19/26, checks as fol-

lows: W. R. H., \$200.00; K. O. Company.

Texas Bank & Trust Company. Deposited by S. H. Terrell, Comptroller, Austin, Texas, 9/30/26, checks as follows: \$100.00.

Mr. McGill: You may cross-examine him. One more question before I turn him over.

Q. Mr. Turner, do you keep in connection with the records of your bank a cash journal?

A. No, sir; we don't. The account itself, the charges are made direct to the account.

Q. Well, now, is there any way that you can trace a deposit here and see from what source it has come by following the account?

A. If it is an out-of-town item, through the transit department.

Q. Through the transit department. What is that?

A. Out-of-town items are turned over to the transit department, and they keep a record of the last endorsement and payee.

Q. To make myself clear, you have a deposit there showing \$140.40, 9060, deposited in your bank, and that is all that is shown on his deposit slip. Suppose you wanted to determine the source from which that deposit came, how would you do it?

A. Unless it was an out of town item, you couldn't do it.

Q. Well, suppose it was an out of town item, how would you do it—just go into detail and tell us how you would do that through your deposit department?

A. The items payable in out of town banks were all listed or run through the deposit department. That shows the bank on which they are drawn and the last endorsement on the back, from which we received the check.

Q. Now, I will ask you whether you identify that as a photostatic copy of the original we had here a moment ago, is that a true photostatic copy of the original bank account?

A. Yes, sir.

Mr. McGill: Now, we want to offer in evidence the photostatic copy of the bank account in the Texas Bank & Trust Company.

(The photostatic copy of said bank account was received in evidence, marked "Exhibit 66," and is attached to the transcript of the testimony.)

Q. Mr. Turner, do you have, in connection with the records of your bank, any record by which you can identify to whom the checks designated in this account here were payable?

A. No, sir; I don't.

Q. There is no way to determine that from the records of your bank?

A. No, sir.

Mr. McGill (to counsel for respondent): Cross-examine him.

Mr. McGregor: Stand aside.

D. W. Macken was thereupon called as a witness in behalf of the House of Representatives, and having been duly sworn by the Chairman, testified as follows:

Direct Examination.

Questions by Mr. McGill:

Q. Please state your name to the committee, where you live and your occupation?

A. D. W. Macken, auditor Austin National Bank. I live in Austin.

Q. Mr. Macken, I will ask you whether or not the records of your bank—whether or not you are familiar with the records of your bank?

A. I have access to the records, am fairly familiar with them, yes, sir.

Q. Yes, sir. Does the record of your bank reflect an account in the name of S. H. Terrell, Comptroller, Special?

A. It reflects that he did have an account, yes, sir.

Q. That he did have an account there? Do you have that account with you?

A. I have the ledger sheets, yes, sir.

Q. The ledger sheets show that account? I will ask you whether or not that is a photostatic copy of the ledger account that you have (handing instrument to witness)?

A. (After examining.) Yes, sir.

Q. Mr. Macken, what date does the record show that that account was opened?

A. Our record shows that the account of S. H. Terrell, Comptroller, Special, was opened on April 7, 1925, with a deposit of \$957.00.

Q. What date does the record show that the account was closed, if it is closed?

A. January 8, 1930.

Q. Mr. Macken, I will ask you to refer to that account and state whether or not it shows a deposit of \$26.32 on the 10th of June, 1925?

A. Yes, sir.

Q. Whether or not it shows a deposit of \$2334.84 on June 26, 1925?

A. Yes, sir.

Q. Whether or not it shows a deposit of \$3447.97 on January 28, 1926?

A. \$3447.99.

Q. Is that correct?

A. Yes, sir.

Q. Whether or not it shows a deposit of \$2625.07 on January 30, 1926?

A. Yes, sir.

Q. State whether or not it shows a deposit of \$4195.86 on March 20, 1926?

A. Yes, sir.

Q. And whether or not it shows a deposit on November 18, 1926, of \$25?

A. Yes, sir.

Q. And whether or not on October 1, 1928, a deposit of \$2795.50?

A. On October 1, 1928, \$2795.50, yes, sir.

Q. And on June 20, 1929, a deposit of \$619.66?

A. \$619.66.

Q. Yes, sir?

A. Yes, sir.

Q. And of August 26, 1929, \$286.35?

A. Yes, sir.

Q. And a deposit of date December 13, 1929, of \$1375.00?

A. Yes, sir.

Q. Do you have the total of those deposits?

A. No, sir.

Q. You do not have them?

A. No, sir.

Q. All right.

Mr. McGill: I will introduce now this bank statement.

(The bank statement above offered in evidence is marked "Exhibit 67" and was received in evidence, and photostatic copies thereof are attached to the transcript of testimony.)

Q. Do you have the deposit slips covering these deposits?

A. I have all except one, a deposit of January 6, 1926, total, \$3447.99, the original of that deposit slip cannot be found, it isn't in the records I have.

Q. Now, with the exception of that one item, are those the original deposit slips of all the other items that I mentioned?

A. I checked the original items as you called them from the ledger sheets, I didn't check them from the deposit slips.

Q. Will you check them?

A. Yes, sir.

Q. (Reading from deposit slips.) June 10, 1925, \$26.32?

A. Yes, sir.

Q. I will ask you whether or not it shows a deposit on June 26, 1925, of \$2334.84?

A. Yes, sir.

Q. January 6, 1927,—that one he didn't have?

A. That is missing, yes, sir.

Q. January 30, 1926, \$2625.07?

A. Yes, sir. Do you want one there of March 30, 1926?

Q. March 30, 1926. Ahead of that is January 30, 1926, \$2625.07?

A. Yes, sir.

Q. March 20, 1926, \$4195.86?

A. Yes, sir.

Q. And November 18, 1926, \$25.00?

A. Yes, sir.

Q. October 1, 1928, \$2795.50?

A. Yes, sir.

Q. June 20, 1929, \$619.66?

A. June 20, 1929? What is the amount,—\$619.66?

Q. Yes, sir?

A. Yes, sir.

Q. August 26, 1929, \$286.35?

A. August 26, 1925, \$286.35?

Q. Yes, sir.

A. Yes, sir.

Q. And December 31, 1929, \$1375.00?

A. \$1375.00.

Q. Yes, sir.

Mr. McGill: Now, we offer these original deposit slips, with the same understanding, that we will have photostatic copies made of them, and return them to Mr. Macken. That is all, Mr. Macken.

(The deposit slips identified by the witness were received in evidence and marked as Exhibits 70 to 78, inclusive, and photostatic copies of same are attached to the transcript of the testimony and made a part of this record.)

Mr. McGill: I have another question:

Q. Mr. Macken, do the records of your bank reflect in the journal or cash ledger, by which it may be determined to whom checks drawn against that account are payable?

A. No, sir.

Q. Any records?

A. No records. In case of transit items, we have a record of the bank on which it is drawn, and our endorsement.

Q. Well, now, about the deposits, do you have any records in your bank by which you could trace the source of a deposit?

A. No, sir.

Q. None whatever?

A. What do you mean by "source of deposit"?

Q. I mean see where the money came from?

A. The deposit slip itself is the only evidence.

Q. You have no way of tracing a check?

A. We can trace checks, yes, sir.

Q. That is what I mean.

A. But we don't keep the journal, showing who the maker of a check is.

Q. How would you trace a check through your bank?

A. It is not definite. In case it is a check for an odd amount, we can trace it without a great deal of difficulty. In the case of a check of an even amount, like one hundred dollars, something like that, something of that sort, it is hardly possible to trace it. We can trace a check by the amount and determine what bank it is drawn on, and then the records of that bank will always tell us who draws the check and to whom it is payable. We trace the name of the bank upon which it is drawn only.

Q. Do you have a receipt for the monthly statements furnished of this account here to Mr. Terrell?

A. We have a form receipt which we use that is supposed to be signed

every time a statement is delivered, yes, sir.

Q. Is this one?

A. This is one given me by the statement clerk, yes, sir.

Q. Do you render a monthly statement and return the cancelled checks each month?

A. We return, or we render a statement only when called for.

Q. Only when called for? Does that include the return of the cancelled checks?

A. It includes the return of the cancelled checks, yes, sir.

Mr. McGill: We want to introduce this statement here.

(The receipt above identified by the witness and received in evidence was marked "Exhibit 68," and is as follows):

"Name	S. H. Terrell, Comp. Special.	Address.
Date of	Received Statement of my account	Date of
Statement	with all checks charged thereon	Receipt
1-4-30	H. A. Bresler	Jan 7 1930
1/10/30	H. A. Bresler	Jan 10 1930
Date of	Received Statement of my account	Date of
Statement	with all checks charged thereon	Receipt.

(Endorsed): "Ex. 68."

Mr. Keeling: Just let me see this account. Did he state that he identified the signature?

Mr. McGill: That is all. Do you want to cross examine him?

Mr. Keeling: Yes, I do a little bit on that point right there, if you don't mind.

Cross Examination:

Questions by Mr. Keeling:

Q. Mr. Macken, as I understood, you do not attempt to identify the signatures on either one of those slips?

A. No, sir.

Q. This account has been running since 1927. Will this represent all of the receipts for book balances you have records of?

A. I didn't check these—those receipts, I don't know what the first date is there—the account was opened in 1925, I don't know what the first receipts show.

Q. I will ask you how strict the bank is with reference to retaining receipts for balanced books containing cancelled checks?

A. I can only answer that question this way: We attempt to be as careful as we possibly can. If one is authorized to receive the book, his signature is taken on these receipts.

Q. As a matter of fact, if you had no reason to doubt the person who called for the book and offered to sign for it, you would surrender it to him, wouldn't you?

A. I imagine we would, yes, sir.

Q. These surrendered checks, together with the bank book records, would be delivered to any person that you considered authorized to receive the same?

A. Yes, sir. As a matter of fact, their signature appears on that card more than once, which gives us a sort of check against that.

Q. Yes. These two slips here show all of the balances that have been made on that account since it was opened?

A. No, sir.

Q. There were some times when you did not take a receipt, were there not?

A. No, I don't mean to say that. What I mean to say is that these receipts here show that the statement dated June 21, 1927, and receipted for on June 23, 1927, was as far back as these receipts go. There were possibly receipts prior to that time.

General Keeling: No further questions.

Mr. McGill: That is all.

Mr. McGill: We will offer this statement in evidence now with the understanding we will have a photostatic copy

of it made and the original will be returned to Mr. Macken.

(The receipt above offered in evidence was received in evidence and marked Exhibit 69, and a photostatic copy of same is attached to the transcript of the testimony.)

Mr. McGill: I now offer an agreed statement, agreed to by counsel, of Mr. A. S. Hardwicke. The clerk will read it.

The clerk thereupon read the statement of Mr. Hardwicke, which was marked "Exhibit 79," and is as follows:

By agreement of counsel for the House of Representatives and for the respondent, the following testimony of the witness A. S. Hardwicke, was dictated by the witness to H. D. Mahaffey, one of the official reporters of the Committee of the Whole, same to be read in evidence before the Committee and to be considered the same as if the witness was present in person and gave his testimony orally before the Committee.

My name is A. S. Hardwicke; I am assistant general counsel of the Magnolia Petroleum Company and was such during the times hereinafter testified about.

On August 4, 1925, the Magnolia Petroleum Company entered into a contract with the air service of the United States army, at San Antonio, Texas, to furnish gasoline, such contract to remain in force until January 25, 1926.

At the time said contract was entered into, there was what was commonly known as the gasoline tax of one cent per gallon being imposed by the State of Texas, and at that time, there was a suit pending in the district court of Travis county, Texas, styled the State of Texas vs. Grayburg Oil Company, wherein the question as to whether or not said tax could be levied was involved. The oil companies contending that the air service of the United States army was a Federal governmental agency and that the transaction was in interstate commerce. The Magnolia Petroleum Company was likewise making the same contention that the tax was not due upon the sales to the air service.

I interviewed the Attorney General's Department to see if there was any agreement whereby this supposed tax could be put in escrow and held under bond awaiting the determination of said suit. The Attorney General's Department informed me that it did not have such an agreement, but perhaps the Comptroller had an agreement whereby the bond might be given and thereby

secure the State or that the amount of the tax might be placed in escrow. I returned home and wrote the Comptroller a letter of date September 24, 1925, a carbon copy of which is in evidence, sending the Attorney General a carbon copy of the letter. I received from the Attorney General an acknowledgment of said carbon copy, which reads as follows:

Austin, Texas, September 26, 1925.

Hon. A. S. Hardwicke, Care Magnolia Petroleum Company, Legal Department, Dallas, Texas.

Dear Sir: This is to acknowledge on behalf of the Attorney General your carbon copy of letter dated September 24th, addressed to the Comptroller of Public Accounts, and having reference to provision for the amount claimed as gasoline tax being sold to the Federal government.

Very truly yours,
ERNEST MAY,
Assistant Attorney General.

In reply to the letter of date September 24th, I received a letter signed by S. H. Terrell, Comptroller, dictated by E. J. Martin, and reading as follows:

Austin, Texas, September 25, 1925.

Hon. A. S. Hardwicke, Assistant General Attorney, Magnolia Petroleum Company, Dallas, Texas.

My Dear Sir: Replying to your letter of the 24th instant, I beg to advise that it will be agreeable with this office for you to remit gasoline sales tax on sales made to United States government, as referred to in your letter.

Remittances of this character are deposited to the credit of an escrow fund account, and in the event the Supreme Court holds that such tax is collectible by the State, such fund will be deposited in the State Treasury; otherwise, such will be promptly refunded to you.

Assuring you that it is a pleasure to serve you at all times, I am,

Very truly yours,
(Signed) S. H. TERRELL,
Comptroller.

Thereupon, I instructed the Accounting Department to remit checks evidencing the one cent tax on gasoline so sold to the United States government to be held in escrow by the Comptroller.

September 29, 1929, D. A. Little, Assistant Treasurer, in a letter of that date, directed to Honorable S. H. Terrell, Comptroller of Public Accounts, Austin, Texas, remitted \$1,472.80, said letter reading as follows:

"There is enclosed Magnolia Petroleum Company's Check No. T-1094, drawn on Hutchings, Sealy & Company, Galveston, Texas, in the sum of \$1,472.80, being one cent per gallon tax on 147,280 gallons of gasoline sold to the United States government at San Antonio, Texas, which was deducted from our payment of the gasoline tax for the month of August, 1925.

This check is being sent you in accordance with your letter to Judge Hardwicke, wherein you stated that check will be held in escrow pending decision of the Supreme Court as to whether or not this gasoline would be taxable.

Kindly let us have official receipt covering and oblige,

Yours very truly,
(Signed) D. A. LITTLE,
Assistant Treasurer.

On October 24, 1925, Mr. Little enclosed a letter, sent to the Comptroller, Check T-5013—Voucher K-2034, in the sum of \$1332.60, covering one cent per gallon tax on 133,260 gallons of gasoline sold in the month of September to the United States army with the same recitation, that it was to be held in escrow.

On November 24, 1925, a like check, being number T-8958-L-2028, was sent to Mr. Terrell, Comptroller, in the sum of \$1473.34, covering one cent per gallon on 147,344 gallons of gasoline sold to the United States government during the month of October, 1925, with the same recitation that it was to be held in escrow and asking for receipts from the Comptroller for checks theretofore sent him.

By letter of date November 27, 1925, signed by S. H. Terrell, Comptroller, dictated by E. J. Martin, directed to D. A. Little, Assistant Treasurer, Magnolia Petroleum Company, the Comptroller acknowledged receipt of three checks, as follows:

"I beg to acknowledge receipt of your company's checks on account of gasoline sales tax to the United States government, as follows:

August, 1925	\$1,472.80
September, 1925	1,332.60
October, 1925	1,473.34

The above checks being held in escrow in accordance with my letter of September 25th last.

This letter will serve as a receipt, inasmuch as regular form of official receipt countersigned by the State Treasurer, cannot issue by reason of the fact

that these funds are not transmitted to the Treasury.

Very truly yours,
(Signed) S. H. TERRELL,
Comptroller."

On December 31, 1925, Mr. D. A. Little, Assistant Treasurer, sent the Comptroller Check T-12798, drawn on the Republic National Bank of Dallas, in the sum of \$631.20, on said escrow account for gasoline sold during the month of November, 1925.

January 23, 1926, Mr. Little sent to the Comptroller Check T-15826, on the American Exchange National Bank of Dallas, payable to the order of the Comptroller, for the sum of \$1262.40, to be held in escrow.

On January 25, 1926, Mr. Terrell, by letter of that date, acknowledged receipt to Mr. Little of the above check, the said funds to be applied and held to the escrow account as in the past in these matters.

February 24, 1926, Mr. Little, by letter of that date, remitted check T-20001 to the Comptroller for the sum of \$140.40, to be held in said escrow account.

By letter of March 3, 1926, signed by S. H. Terrell, Comptroller, acknowledgment was made that the Comptroller had received the above check to be held in the escrow account.

In the case of State vs. Grayburg Oil Company, filed May 18, 1925, in the district court of Travis county, was tried and resulted in judgment in favor of the State, holding that the tax was collectible.

On June 12, 1926, the judgment of the trial court of Travis county was affirmed by the Court of Civil Appeals.

On March 7, 1928, the Commission of Appeals, approved by the Supreme Court of Texas, affirmed the judgment of the Court of Civil Appeals, and held that the tax was collectible.

When the Supreme Court of Texas so affirmed said judgment, holding that said tax was collectible, our department advised the sales department and treasury department that the Supreme Court had held that the tax was collectible and that we would have to pay the taxes, thereupon the treasurer charged off said items.

A writ of certiorari was granted by the Supreme Court of the United States in the case of State of Texas vs. Grayburg Oil Company, affirmed by the Commission of Appeals on March 7, 1928, and the Supreme Court on January 21, 1929, reversed the Grayburg case and held that the tax was not collectible.

Our legal department failed to advise the Treasury Department of this holding of the Supreme Court of the United States, and the matter of recovery from the Comptroller of the funds held in escrow was overlooked by the Treasury Department, as all the checks were cashed by the Comptroller, until receipt of telegram from the State Auditor of date January 22, 1930, inquiring whether the checks above listed had been paid.

Upon receipt of said telegram, the Magnolia Petroleum Company made out its claim against the Comptroller and forwarded same to the Comptroller, amounting to the sum of \$6312.74.

In response to this claim, we received a request from W. A. Keeling, of date January 25, 1930, as follows:

"Legal Department, Magnolia Petroleum Company.
Dallas, Texas.

Attention Judge Hardwicke.

My dear Judge Hardwicke:

S. H. Terrell is in receipt of claim by the Magnolia Petroleum Company for the sum of \$6312.74, which was to be held by him in escrow for gasoline tax, and it appears that the claim is all right, but Mr. Terrell consulted with me yesterday about this matter. This transaction was handled by one of his assistants who is now dead, and an audit is being made of the desk of Mr. Martin, deceased, and he asked me to say to you that he would be glad if you will wait until he completes his audit before he makes his remittances. He assumes and believes that the amount is correct, but we would like to verify the audit of the desk before he makes the remittance. Please advise me if this will be agreeable to you. Of course, he only requires a reasonable time in which to do this. Please let me hear from you.

(Signed) W. A. KEELING."

In response to the request from Mr. Keeling, on January 27, 1930, we notified him as follows:

"Dear Judge: Your letter of January 25th in behalf of Mr. Terrell received. Of course, it will be satisfactory with us for Mr. Terrell to delay reimbursement pending the audit of the desk of the assistant to whom you refer."

Photostatic copy of the six checks above referred to are in evidence. I hold in my possession the originals.

None of the moneys so placed in escrow have been repaid to the Mag-

nolia Petroleum Company and is now owing to the Magnolia Petroleum Company.

I handled this transaction for the Magnolia Petroleum Company. The only agreement I had with the Comptroller or any of his representatives is evidenced by the writings above referred to. I had no personal interview with the Comptroller or Mr. Martin or any one connected with the Comptroller's Department regarding the depositing of these moneys in escrow. The agreement between the Comptroller's Department and myself was that the moneys were to be deposited in escrow, as evidenced by the above writings, and no agreement, verbal or otherwise, was entered into or considered or thought of by myself to the effect that said funds so deposited in escrow were not to be returned to the Magnolia Petroleum Company in the event the courts held that said tax was void. On the contrary, the agreement was that said moneys placed in escrow were to be returned to the Magnolia Petroleum Company if the courts held said tax to be void.

(Signed) A. S. HARDWICKE.

Paul D. Banning was thereupon called as a witness in behalf of the House of Representatives, and having been duly sworn by the Chairman, testified as follows:

Direct Examination.

Questions by Mr. McGill:

Q. Please state your name to the committee.

A. Paul D. Banning.

A Member: Louder.

A. Paul D. Banning.

Q. Where is your residence?

A. Washington, D. C.

Q. What is your occupation, Mr. Banning?

A. Accountant and investigator.

Q. Are you a certified accountant?

A. I am certified under the laws of the States of Tennessee and Indiana.

Q. You are connected with Mr. Lynn in making this audit, are you not?

A. I am.

Q. What was your business or occupation, and with whom were you connected prior to your connection with Mr. Lynn?

A. I was connected with the law firm of George E. H. Goodner, in Washington, D. C.

Q. In what capacity, Mr. Banning?

A. As an accountant.

Q. You have been doing accountancy for that firm?

A. I have been doing both accountancy and law work for that firm.

Q. Had you any connection with the Efficiency Bureau?

A. I was connected with the United States Bureau of Efficiency for two years in the capacity of investigator.

Q. When was that, Mr. Banning?

A. That was from December 1, 1926, to January 1st—I will change that to January 15, 1928.

Q. You are not connected with that bureau now?

A. I am not.

Q. Mr. Banning, how did you happen—how did you come to be associated with Mr. Lynn in connection with this audit that he has made?

A. Governor Moody called upon Herbert B. Brown, Chief of the United States Bureau of Efficiency, for an assistant or consultant for Mr. Lynn; Mr. Brown could not assign any of the employees in the bureau to such work, as the government appropriation would not permit that. He arranged for my employment with Governor Moody.

Q. And you are under employment now by the State of Texas for making this investigation?

A. I am.

Q. And what is your compensation?

A. My compensation is \$25.00 per diem and expenses.

Q. When did you first get to Texas in connection with this audit?

A. I arrived in Texas January 6th, I believe—I am not dead sure of the date.

Q. Did you accompany Mr. Lynn to Mr. Terrell's office on or about January 18, 1930?

A. I did.

Q. For what purpose?

A. Mr. Lynn and I went there primarily for the purpose of getting information regarding the account of S. H. Terrell, Comptroller, Special, carried in the Austin National Bank.

Q. Did you have a conversation or were you present at a conversation between Mr. Terrell and Mr. Lynn on that day?

A. I was present. Mr. Bresler ushered us into Mr. Terrell's office, and then departed. Mr. Lynn asked Mr. Terrell to produce the record of this bank account.

Q. That is, the Austin National Bank, is that correct?

A. The account of S. H. Terrell, Comptroller, Special, in the Austin National Bank.

Q. What did Mr. Terrell say when Mr. Lynn asked him to produce the records?

A. Mr. Terrell stated that the only account he had in which said funds were carried was that in the American National Bank. He stated that the other accounts were personal accounts, and he was aware that the State Auditor's office had investigated or had secured information from the bank regarding this account in the Austin National Bank, and that he contemplated taking legal action against the bank.

Q. Did he say whether or not there were any State funds in that account?

A. At one conference he admitted—

Q. At this conference, I am talking about—the 18th?

A. I believe that he stated that there were no State funds in this account.

Q. State whether or not Mr. Lynn requested the Comptroller to produce the bank statements, canceled checks, etc., for this account, at that interview?

A. He did.

Q. What did the Comptroller say?

A. He stated that this was a personal account.

Q. Did he produce them?

A. He did not.

Q. Did he say that he would not produce them?

A. He declined to produce them.

Q. Yes, sir? Is that practically all that occurred during that first interview between you and Mr. Lynn and the Comptroller?

A. That is all that I recall of any importance.

Q. Did you have another interview with the Comptroller and Mr. Lynn on January 22, 1930?

A. We did.

Q. State what occurred at that interview.

A. Mr. Lynn, Mr. Carter and myself went to the Comptroller's Office and met Mr. Terrell. At that time Mr. Lynn had a written demand that Mr. Terrell produce the records pertaining to the account of S. H. Terrell, Comptroller, Special, carried in the Austin National Bank, and also the records pertaining to the account of S. H. Terrell, Comptroller, Special, carried in the Texas State Bank & Trust Company, and any other bank in which State funds had been deposited.

Q. Did he exhibit that written request to the Comptroller?

A. Mr. Lynn exhibited the written request to the Comptroller.

Q. What did the Comptroller say?

A. The Comptroller first said that he would look over this and reply by letter.

Q. Was that all that occurred at that interview?

A. Mr. Lynn stated then that he was making a demand there and now for Mr. Terrell to produce the records pertaining to those bank accounts.

Q. What did Mr. Terrell say, if anything, in answer to that demand or statement?

A. Mr. Terrell stated that he had, or was securing an opinion from the Attorney General as to whether or not Mr. Lynn was entitled to access to those records.

Q. Well, what occurred after that?

A. The discussion then drifted around as to what record was maintained which would show the portion of the State funds carried in these accounts.

Q. Did you at that time make any investigation of the records in the Comptroller's office to determine that fact?

A. Mr. Terrell stated that Mr. Byrne had a record of the State funds in this account. He stated that Martin had formerly kept this record. We then went back to Mr. Byrne's office, and after Mr. Terrell's insistence that Mr. Byrne produce the record, Mr. Byrne said, "I don't know what records you have in mind, unless it is the old audit book."

Q. What did Mr. Terrell say?

A. We then went—I don't recall that Mr. Terrell made any remark—we then went back to the room occupied by Mr. Holden and Mr. Hardeman. There Mr. Byrne produced a large bound book, which we examined. On page 551 of this book we found an account entitled—entitled, "Money collected and checks held in escrow."

Q. Did you have a photostatic copy of that account, Mr. Banning?

A. I have some here, this paper I hold in my hand is a photostatic copy of the account.

Q. Yes, sir? Now, when you got that, found that account in that book, what did you do next?

A. We examined the items in this account. We noticed that several collections were made from the Magnolia Petroleum Company, one from the Independent Oil Company, one from the Auto Supply Company, and one from the Sunshine Consolidated Oil Company, and three from the Keeling Oil Company.

Q. What did you do next after you found that?

A. By reference to this account, we readily identified some of the deposits by the similarity of amounts and dates, in the account of S. H. Terrell, Comptroller, Special, carried in the Texas Bank & Trust Company and in the Austin National Bank.

Q. That was later. I want to find out did you or did you not go back in Mr. Terrell's office after you found that account in the book?

A. After we found this account in the book, Mr. Lynn put the book under his arm and he and I went back into Mr. Terrell's office.

Q. What conversation took place there at that time?

A. Mr. Lynn asked Mr. Terrell to explain the nature of this account. Mr. Terrell glanced at the account, and first stated that it represented tax on gasoline sold to the United States government. He then stated that the money had been collected by Mr. E. J. Martin under an agreement which Mr. Martin had with the Magnolia Petroleum Company. We didn't discuss at that time the other items in the account.

Q. Did he make any explanation or any statement as to whether or not that was State money, or the contrary, or as to whether it had been repaid to the respective oil companies or not?

A. He stated that it was not State money, that it had not been repaid to the oil companies, and, furthermore, that it was not to be repaid to the oil companies.

Q. Did he state why it was not to be repaid?

A. He declined to discuss the nature of the agreement which Mr. Martin had with the oil companies.

Q. Did Mr. Lynn press him for an answer on that account as to why it was not to be repaid?

A. Yes, he did.

Q. What did he ask him?

A. I believe that Mr. Lynn asked him if he knew any of the officers in the Magnolia Petroleum Company.

Q. Did he ask him anything else?

A. He asked him if it was a dividend.

Q. Did he ask him anything else?

A. He also asked him if it was a contribution to his campaign.

Q. And in answer to these inquiries, what did he state?

A. Mr. Terrell stated that he was not acquainted with any of the officers of the Magnolia Petroleum Company. I don't recall the answer he gave to the other questions, but I recall Mr. Lynn's asking these questions.

Q. In any event, you do recall that he declined to state the purpose or reason why that money was not returned?

A. I do.

Q. Was that all that occurred during that conference on January 22, or

was there anything else that you have not already been asked about?

A. I believe that Mr. Terrell stated in that conference he had this money in his bank accounts.

Q. Now, did you have any further meetings with Mr. Terrell?

A. The next day, we went to Mr. Terrell's office.

Q. On January 23, 1930?

A. Yes, sir.

Q. Was the Comptroller there?

A. We met the Comptroller.

Q. Well, state what occurred.

A. At that conference, the Comptroller produced the check stub book, S. H. Terrell, Comptroller, Special, carried in the Texas Bank and Trust Company, and check stub books for check drawn on the account of S. H. Terrell, Comptroller, Special, carried in the Austin National Bank. From these check stubs, Mr. Lynn and I prepared a list showing the date, payee, number of check and amount and from statements made by Mr. Terrell as to whether the money was drawn for personal or State purposes.

Q. Did you write down the purposes for which he said that it was withdrawn at the time?

A. Mr. Lynn wrote down the purposes in connection with checks drawn on the Texas Bank and Trust Company, and I wrote down the list of the checks drawn on the Austin National Bank.

Q. Did you or Mr. Lynn question Mr. Terrell as to whether or not the inheritance tax money was paid direct to him?

A. During this conference, Mr. Lynn questioned Mr. Terrell as to whether or not inheritance taxes were ever collected directly by the Comptroller's office.

Q. What did he say with reference to that?

A. Mr. Terrell stated that they were not.

Q. Did you or Mr. Lynn question Mr. Terrell at that conference as to whether or not occupation taxes were paid directly to the Comptroller?

A. We did—that is, Mr. Lynn did.

Q. What did he say in answer to that inquiry?

A. He stated that they were not.

Q. Did you or Mr. Lynn ask Mr. Terrell at that conference for the records, the checks that represented those stubs that you had been checking up—the cancelled checks?

A. We asked Mr. Terrell for all records he had for both of these check stub books, including the check books, cancelled checks and stubs, and Mr.

Terrell stated that the cancelled checks had been destroyed.

Q. Did he procure any cancelled checks at all on either bank account?

A. He produced three cancelled checks, I believe, on the account carried in the Austin National Bank. I do not recall whether he produced any checks on the account carried in the Texas Bank and Trust Company when Mr. Lynn was discussing that account with Mr. Terrell during the conference.

Q. On January 23, 1930, did you have occasion to call on Mr. McKay in the Comptroller's office?

A. I am not sure whether it was January 22nd or 23rd that we called on Mr. McKay.

Q. What was your purpose in calling on Mr. McKay?

A. The Auditor's office had previous to this time secured information from copy of the deposit slips pertaining to the account in the Austin National Bank that inheritance taxes of approximately forty-two hundred dollars—of \$4195.86, had been collected from the estate of W. O. Allison and deposited in the account.

Q. What did you go there for?

A. We wanted to find out when the inheritance tax was paid into the Treasury.

Q. All right. State what occurred when you went there to talk with Mr. McKay about the inheritance tax?

A. Mr. Lynn requested Mr. McKay to produce the file of the case of the estate of William O. Allison. Mr. McKay after a short search brought forth this file. We looked at the file and papers therein did not indicate that the tax had been paid into the Treasury. Mr. Lynn asked Mr. McKay the reason the tax had not been paid into the Treasury, and Mr. McKay stated that the file had been misplaced.

Q. Did you request Mr. McKay to produce the file?

A. Mr. McKay, as I stated, produced the file on the estate of William O. Allison. That was just before lunch. Before lunch, Mr. Lynn asked Mr. McKay to go through the files and make a search to determine whether or not any more cases of this nature existed. Mr. McKay said that he would do this and report to us in the afternoon.

Q. Did you go back in the afternoon?

A. Immediately after lunch, Mr. W. F. Carter and myself went back to Mr. McKay's office. Mr. McKay had the file on his desk in the case of Margaret E. Griffith. He stated that this was in the same category as the Allison case.

Q. Now, Mr. Banning. I want to turn back to these bank accounts here and ask you with reference to these deposits—but first we want to offer in evidence the photostatic copy of the sheet headed "Money Collected—Checks held in Escrow," which is as follows:

"Money Collected—Checks Held in Escrow."

Sept. 29, 25	Magnolia Pet. Co.	\$1472.80
	Houston, Texas	
Oct. 26, 25	Magnolia Pet. Co.	1332.60
	Houston, Texas	
Nov. 25, 25	Magnolia Pet. Co.	1473.34
	Houston, Texas	
June 26, 25	Independent Oil Co.	2334.89
	San Angelo, Tex.	
Dec. 22, 25	Auto Supply Co.	228.85
	Laredo, Tex.	
Dec. 24, 25	Magnolia Pet Co	631.20
	Houston, Tex.	
Jan. 25, 26	Magnolia Pet Co	1262.40
	Dallas, Tex.	
Feb. 24, 26	Magnolia Pet Co	140.40
	Houston, Tex.	
Apr. 29, 26	E. H. Eddleman	
	Rec. Sunshine Consolidated	
	Oil Co	4599.03
	Wichita Falls	
July 28, 26	Check added to	
	above and to be deposited	
	25% of claim No. 52	6609.28
Jan. 15, 1926	DeLeon Pipe	
	Line Line & Refg Oil Co.	
	Partial payment of claim	
	DeLeon, Texas	
Aug. 13	Keeling Oil Co C	200.00
	Texline (Claim 69540)	
Sep. 28	Keeling Oil Co C	100.00
Oct. 30	Keeling Oil Co C	25.00

Q. Now, Mr. Banning. in the Texas Bank & Trust Company list, there is a deposit on September 23, 1925, for \$775.94. I will ask you whether or not you made any examination and are capable of testifying from what source that deposit came?

A. I can testify as to the examination we made. I suppose the other would be a conclusion on my part.

Q. State what examination you made and how you arrived at your conclusion?

A. The deposit of \$775.94, on September 23, 1925, apparently represents the proceeds of check No. 34, drawn against the account of S. H. Terrell, Comptroller, which was carried in the Austin National Bank. This latter account was explained to us by Mr. Edwards as having been a depository for

collections of taxes received by the Comptroller's office. We examined the check stub book of this bank account. That is the account S. H. Terrell, Comptroller, which is carried in the Austin National Bank. The stub for the check bears this notation: "This represents money unaccounted for, etc." By a similarity of dates and amounts, we concluded that this check drawn on the Austin National Bank represented the amount deposited in the Texas Bank & Trust Company on the same day.

Q. Now, the next item in that account is a deposit of \$1472.80. I will ask you if you can state the source of that deposit?

A. The deposit of \$1472.80, on October 14, 1925, represents a collection received from the Magnolia Petroleum Company for gasoline sold to the United States government. This item appears in the escrow account as collected on September 29, 1925. An inspection of the cancelled check of the Magnolia Petroleum Company shows that the amount was deposited in this bank account. On examining the gasoline tax records, the same did not indicate that the amount had been paid into the Treasury.

Q. Well, if you are going to take it up that way. I will ask you whether or not you examined the records in the Comptroller's office, and, if so, if there was any record or indication at all that the \$775.94 had ever been paid into the State Treasury?

A. There was no indication that this amount of \$775.94 had been paid into the State Treasury.

Q. Now, as to the item of \$140.40, deposited on March 19, 1926. Did you trace the source of that deposit?

A. The deposit of \$140.40 on March 19, 1926, represents a collection from the Magnolia Petroleum Company. It is in the same category as the collection of \$1472.80 received from this company.

Q. Did you examine the records in the Comptroller's office to see whether or not that amount had ever been paid into the State Treasury, or returned to the Magnolia Petroleum Company?

A. I did. There was no indication on the gasoline tax record that the amount was ever covered into the Treasury. I have been informed by Mr. Hardwicke of the Magnolia Petroleum Company that none of this amount was repaid to the company.

Q. The next item represents a deposit in the Texas Bank & Trust Company and shows to have been an item of \$6,609.28, deposited on June 5, 1926. Can you give the source of that deposit?

A. The deposit of \$6,609.28, on June 5, 1926, represents a collection received from the Sunshine Consolidated Oil Company. This amount also appears in the escrow account. The amount was apparently withdrawn from the bank on July 28, 1926, and paid into the Treasury on August 4, 1926, deposit warrant number 10985.

Q. Now, on August 19, 1926, there is shown a deposit of \$200.00 in the Texas Bank & Trust Company?

A. The deposit of \$200.00 on August 19, 1926, has, by reference to the escrow account, been identified as a payment from the Keeling Oil Company. I have been unable to learn the reason for this payment. On January 27, 1930, the Comptroller paid into the Treasury an amount equivalent to this item and \$125.00 collected from the same company under deposit warrant 504.

Q. On January 27, 1930?

A. Yes, sir. The Comptroller paid into the Treasury \$325.00 on deposit warrant number 504.

Q. The next item, and the final deposit in that account is for \$100.00 on September 30, 1926. Can you give the source of that deposit?

A. The deposit of \$100.00 of September 30, 1926, has also by reference to the escrow account been identified as a payment from the Keeling Oil Company. This item was part of the deposit warrant 504, paid into the Treasury on January 27, 1930.

Q. Have you examined that bank account so as to be able to testify as to the date that it was closed?

A. I have examined the photostatic copies of the bank account.

Q. What date was it closed, according to the photostatic copy of the account which you have?

A. The photostatic copy of the account of S. H. Terrell, Comptroller, Special, carried in the Texas Bank & Trust Company, indicated that the account was closed on January 27, 1930.

Q. Now, Mr. Banning, from your examination of that account and the sources of those deposits, are you able to state the total amount of those deposits in that bank, and the total withdrawals which you checked for State purposes prior to the time the account was closed, and the amount of the account unaccounted for at the time it was closed?

A. The total deposits in the account of S. H. Terrell, Comptroller, Special, in the Texas Bank & Trust Company aggregated \$9298.42. The payment of \$6609.28 appears to have been properly cleared through the account and covered

into the Treasury. By deducting from the total deposits of \$9298.42 the payment from the account for the Sunshine Consolidated Oil Company of \$6609.28, leaves \$2689.14 in items or collections deposited in this account and not accounted for by the Comptroller.

Q. Now will you turn to the account in the Austin National Bank. Will you summarize the amount of the withdrawals from those deposits which are unaccounted for—the amount of deposits unaccounted for?

A. They are as follows: September 23, 1925, transfer of balance to special account Austin National Bank, \$775.94; October 13, 1925, Magnolia Petroleum Company check, \$1472.80; March 19, 1926, Magnolia Petroleum Company check \$140.40; August 19, 1926, Keeling Oil Company \$200.00; September 30, 1926, Keeling Oil Company \$100.00, making a total of \$2689.14.

Q. Now, will you turn to the deposit account in the Austin National Bank. There is shown on June 10, 1925, a deposit of \$26.32. Have you been able to trace the source of that item?

A. I have been unable to tell the source of deposit of \$26.32, on June 10, 1925. No check for this amount ever cleared from the bank account. No explanation of the item has ever been furnished by the Comptroller.

Q. There is next shown a deposit of \$2334.84 on June 26, 1925. What is the source of that deposit?

A. The deposit of \$2334.84 on June 26, 1925, represents a collection from the Independent Oil Company of San Angelo, Texas. This item appears as \$2334.89 in the memorandum account, "Money Collected—Checks held in Escrow." This amount has never been cleared from the bank account. Examination of the gasoline tax records does not indicate that it has been paid into the Treasury. Mr. J. W. Belser, former manager of the company, stated in our office that the payment had never been refunded.

Q. The next item is a deposit on January 6, 1926, for \$3447.99—what is the source of that?

A. The deposit of \$3447.99 on January 6, 1926, must be taken in conjunction with the credit on the bank statement of March 20, 1926, of \$18.00. The two amounts aggregating \$3465.99. Our examination shows that this latter amount represents collections received from the following sources:

Magnolia Petroleum Company..\$1,332.60
Magnolia Petroleum Company.. 1,473.34

Magnolia Petroleum Company.. 631.20
Auto Supply Company..... 28.85

The three payments of \$1332.60, \$1473.34 and \$631.20, appear on the escrow account as collections from the Magnolia Petroleum Company. Correspondence shows these collections were made pursuant to instructions issued by the Comptroller to the company on September 25, 1925. I have inspected the canceled checks of the Magnolia Petroleum Company which show that the amounts were deposited in this bank account. Examination of the gasoline tax records does not indicate the amounts have been paid into the Treasury. Mr. Terrell stated that this escrow money which had been collected from the Magnolia Petroleum Company had not been paid into the Treasury nor returned to the company.

Q. The next deposit shown on that account was for \$2625.07, on January 30, 1926—can you show the source of that deposit?

A. The deposit of \$2625.07 on January 30, 1926, represents inheritance tax and penalty in the amount of \$1362.67 collected on the estate of Margaret Elizabeth Griffith, and escrow payment on gasoline tax collected from the Magnolia Petroleum Company in the amount of \$1262.40. The file in the case of Margaret Elizabeth Griffith estate shows that inheritance tax of \$1336.00 and a penalty of \$26.67, were collected by the Comptroller's office.

The Chairman: The Committee will please be in order—proceed now, gentlemen.

A copy of a letter in the file indicated that the Comptroller wrote Messrs. Murray, Aldridge & Roberts, 37 Wall street, New York City, New York, on January 25, 1926, that the payments had been placed in escrow. We can not find that the matter was ever reopened by the taxpayer. On January 27, 1930, an account of \$1367.67 was turned into the Treasury by the Comptroller as evidenced by deposit warrant number 2142, but the money was not withdrawn from this bank account or any other bank account that the Comptroller disclosed to us.

Q. Now on March 20, 1926—

A. Just a moment, Mr. McGill, let me finish this—the payment of \$1262.40 from the Magnolia Petroleum Company, included in the deposit of \$2625.07, is in the same category as the other payments received from that company and has not been found to have been returned nor paid into the Treasury.

Q. The next item of deposit is

\$4195.86—please state the source of that?

A. The deposit of \$4195.86 on March 20, 1926, represents inheritance tax collected on the estate of William O. Allison. The file on the case in the inheritance tax division shows that the tax was assessed against this estate on February 13, 1926, and that the assessment was paid under protest. On or about March 1, 1926, the Comptroller acknowledged receipt of the remittances advising Mr. Jas. D. Moore, Hackensack, New Jersey, that the payment had been placed in escrow to be held for a reasonable time. The Comptroller paid the tax into the Treasury on January 27, 1930, for which deposit warrant number 2141 was issued. The money was not paid from the bank account where the collection had been deposited, nor from any other bank account disclosed to us by the Comptroller.

Q. The next is a deposit of \$25.00—please state the source of that?

A. The deposit of \$25.00 on November 18, 1926, represents a collection from the Keeling Oil Company. This item together with an additional \$300.00 collected from the same company and deposited in the Texas Bank & Trust Company in 1926, was paid into the Treasury on January 27, 1930, as evidenced by deposit warrant number 504.

Q. On October 1, 1928, there is a deposit of \$2795.50—can you give the source of that deposit?

A. The deposit of \$2795.50 on October 1, 1928, covers the following collections: \$337.50, collected by the Comptroller from Miller Brothers Circus, and \$2458.00 collected by the Comptroller from the United Investment and Amusement Company (Al G. Barnes Circus). Both collections represented delinquent occupation taxes. We are unable to find that any part of these amounts were ever remitted to any of the respective tax collectors in the counties in which the circuses gave performances or that any part of the amounts were paid into the Treasury.

Q. The next item of \$619.66, on June 20, 1929—state the source of that, Mr. Banning?

A. The collection of \$619.66 on June 20, 1929, represents \$286.32 gasoline tax collected from the Crescent Oil Company and \$333.34 gasoline tax collected from the Coastal Petroleum Company. With respect to the collections amounts of \$286.32 and \$333.33 were paid into the Treasury as evidenced by receipts numbers 1923 and 1924 on July 31, 1929. Checks for both these latter amounts

were charged to the bank account on August 1, 1929. Thus in the case of the Coastal Petroleum Company there is a difference of one cent between the amount received and the amount paid into the Treasury.

Q. On August 26, 1929, there was a deposit of \$286.35?

A. The deposit of \$286.35 on August 26, 1929, represents gasoline taxes collected from the Crescent Oil Company. From this collection \$286.32 was paid into the Treasury on September 30, 1929, receipt number 3220 evidencing the payment. Check for \$286.32 was charged to the bank account on October 1, 1929. Thus, in this case there is a small difference of three cents between the amount received and the amount paid into the Treasury.

Q. The next item is an amount of \$1375.00—state the source of that item?

A. The deposit of \$1375.00 on December represents gasoline tax of \$1000.00, collected from the Sweetwater Oil & Refining Company, and occupation tax from Ira L. Busick. The collection of \$1000.00 from Sweetwater Oil & Refining Company was paid into the Treasury on January 10, 1930, receipt number 4133, and the collection of \$375.00 represents delinquent occupation taxes on electric pianos located in various counties in the State. The check for \$129.98 which closes the account, in the Texas Bank and Trust Company, was used to purchase exchange or cashier's checks to pay certain county collectors Busick's occupation tax applicable to their respective counties. The Comptroller also withdrew \$155.02 from his account, S. H. Terrell, Special, in the American National Bank, to pay other county collectors for Busick's occupation tax in their counties. The total amount paid out by the Comptroller was \$285.00, which leaves \$90.00 yet unpaid of the collections from Mr. Busick.

Q. Now, Mr. Banning, will you please explain the amount of deposits in the Austin National Bank which have been accounted for?

A. The amount of collections received and deposited in the Austin National Bank, which have been unaccounted for by the Comptroller, appear to be as follows:

June 10, 1925, Deposit of ... \$	26.32
June 26, 1925, Independent Oil Co.	2,334.84
Jan. 6, 1926, Magnolia Petroleum Company	1,332.60

Jan. 6, 1926, Magnolia Petroleum Company	1,473.34
Jan. 6, 1926, Magnolia Petroleum Company	631.20
Jan. 6, 1926, Auto Supply Company	28.85
Jan. 30, 1926, Estate of Margaret E. Griffith	1,362.67
Jan. 30, 1926, Magnolia Petroleum Company	1,262.40
Mar. 20, 1926, Estate of W. O. Allison	4,195.86
Nov. 18, 1926, Keeling Oil Company	25.00
Oct. 1, 1928, Miller Brothers' Circus	337.50
Oct. 1, 1928, Al G. Barnes' Circus	2,458.00
June 20, 1929, Coastal Petroleum Co. ....	.01
Aug. 26, 1929, Crescent Oil Company .....	.03
Dec. 13, 1929, Ira L. Busick.	90.00

Making total of.....\$ 15,558.62

Q. Now, that added to the amount of deposits to the account in the Texas Bank and Trust Company, makes a total of how much, Mr. Banning?

A. That makes a total of \$18,247.76.

Q. Now, Mr. Banning, have you a record of the checks drawn on the Texas Bank and Trust Company and on the Austin National Bank for personal use and unaccounted for purposes which you can read into this record?

A. The record of the checks drawn on the Texas Bank and Trust Company, for personal and unexplained purposes was prepared by Mr. Lynn and is in the report of the State Auditor of January 27, 1930.

Q. Can you state the total amount of the checks withdrawn for personal and unaccounted for purposes from both of those banks?

A. The total amount of checks drawn on the Texas Bank and Trust Company for uncertain uses totals \$808.51.

Q. That was in what bank?

A. Texas Bank and Trust Company—Withdrawals from the Austin National Bank for personal and unidentified uses total \$17,439.25, making a total withdrawals from the two accounts for unexplained and uncertain purposes aggregate \$18,247.76.

Q. Now, have you a list of those withdrawals for the purpose of the record?

A. The list of the withdrawals from the Texas Bank and Trust Company, as I stated, is shown in the original report of January 27, 1930. I have a

list of the withdrawals from the Austin National Bank.

Mr. McGill: We will offer that in evidence without reading to the House the list of withdrawals from the Austin National Bank, and also from the Texas Bank and Trust Company, as set forth in the Auditor's report—we would like to read these items right into the record showing checks drawn against this account for purely personal use—

A. The items withdrawn from the Texas Bank and Trust Company for personal and—exclusively for personal use, appear to be as follows:

April 8, 1927	Tom Folts.....	\$ 15.85
April 8, 1927	J. W. Burke.....	30.72
April 8, 1927	E. F. Elkin.....	30.17
April 8, 1927	A. P. Bagby, Jr..	15.80
April 9, 1927	E. E. Upshaw....	11.85
Sept. 24, 1927	Harry Brister...	50.00
Nov. 2, 1927	Ragsdale Auto Co	90.00
Nov. 25, 1927	A. Ligarde	25.00
Nov. 25, 1927	Dallas News	2.05
Nov. 30, 1927	Star-Telegram ...	2.05
Dec. 6, 1927	H. A. Brister....	100.00
Dec. 16, 1927	Sam H. Terrell,	
	Comp.	50.00
Dec. 21, 1927	M. Cafe (expense)	30.00
Feb. 23, 1928	Covert Auto Co..	36.53
Jun. 18, 1928	C. A. Maufrais...	42.00
July 10, 1928	F. W. Cook & Co.	13.00
July 12, 1928	F. D. Ramsey &	
	Son	36.50
Nov. 15, 1928	Mary McNamara	50.00
Nov. 24, 1928	Boone Photo Co..	23.80
Nov. 26, 1928	Capitol Engrav-	
	ing Co.	11.14
Dec. 27, 1928	Bob Williams....	59.45
Feb. 6, 1929	Covert Auto Co....	30.90
Feb. 8, 1929	Harry Golden....	51.70
Total		\$808.51

Mr. McGill: Now, we will offer in evidence the photostatic copy of the withdrawals from the Austin National Bank, of personal and unaccounted for items, which is as follows:

Date.	Amount.
1925	
July 14	\$ 25.00
August 11	375.00
November 7	100.00
November 16	30.00
November 27	30.00
1926	
January 7	250.00
January 13	75.00
January 19	150.00
January 23	35.00
January 30	40.00
February 15	75.00
February 16	250.00

March 10	60.00
April 24	200.00
April 27	75.00
May 6	85.14
May 27	100.00
September 8	150.00
October 9	250.00

1927	
January 7	300.00
January 14	150.00
January 25	150.00
February 14	250.00
March 8	500.00
April 1	106.54
March 28	50.00
April 2	50.00
April 11	50.00
April 15	25.00
May 2	250.00
May 18	35.00
September 9	16.50
September 15	58.45
September 16	50.00
September 20	300.00
September 27	50.00
October 13	25.00
October 14	48.30
October 17	100.00
October 18	50.68
October 21	75.00
October 24	657.13
October 25	533.48
October 26	30.00
November 4	30.00
November 15	29.20
November 15	50.99
November 16	48.62
December 8	350.00
December 15	50.00
December 17	51.33

1928	
January 9	3.15
January 11	2.16
January 16	413.33
January 21	50.46
January 24	40.20
January 25	41.34
January 30	24.08
February 24	15.00
March 1	50.00
March 15	49.06
April 16	651.26
April 19	84.00
May 11	101.43
May 29	61.50
June 12	21.66
June 13	7.80
June 21	87.75
June 23	10.00
June 25	50.00
June 29	160.00
July 2	67.75
July 14	22.85
July 18 (transferred to Ameri-	
can Nat. Bank)	500.00

July 21	87.25	August 7, Harry Golden....	105.90
August 8	37.85	August 12, Covert Auto Co..	21.00
August 10	20.00	August 12, Covert Auto Co..	100.00
August 11	17.25	August 28, M. Cafe.....	20.00
August 14	428.92	August 29, Covert Auto Co..	49.27
October 5	12.00	September 7, Check No. 198—	75.00
October 9	15.25	(No name)	
October 19	100.00	September 13, Covert Auto Co.	50.00
October 24	250.00	September 14, Harry Golden..	69.64
October 29	37.55	September 17, Boone Photo..	13.72
October 30	10.00	September 19, H. Bresler....	100.00
November 1	404.25	September 21, Gulf Refining	
November 3	378.00	Company	14.83
November 9	125.91	September 24, Ed. Tarrant..	212.50
November 15	50.00	October 8	47.00
November 16	25.00	October 10, Covert Auto Co..	100.00
December 6	37.00	November 15, Gulf Refining	
December 8	25.00	Company	32.93
December 10	150.00	November 16, Calcasieu Lbr.	
December 11	20.25	Co.	416.00
December 11	50.00	November 16, Covert Auto Co	100.00
December 11	40.00	November 21, M. Cafe.....	25.00
December 19	100.00	December 16, Covert Auto Co.	100.00
December 27	346.49	December 20, Plaza Hotel....	20.00
December 21, Tax Coll., Bexar		Co.	25.48
1929		1930.	
January 4	20.48	January 2, County Tax Coll.	
January 4	75.00	Weber	40.00
January 8	150.00	Jan. 8, Transferred to Ameri-	
January 12	22.50	can Nat'l, amount \$563.38,	
January 16	208.00	less amount used to repay	
January 21	40.00	Busick items \$155.02.....	408.36
January 22	73.88		
January 25	41.10		
January 29	12.19		
January 30	45.00	Total	\$17,439.25
February 6	150.00		
February 7	250.00	Q. I want to ask you under what	
February 7	24.50	conditions or circumstances the instru-	
March 8	150.00	ment which you now hold in your hand	
March 30	101.01	was prepared?	
April 8	100.00	A. The instrument which I now hold	
April 9	37.29	in my hand is a list of checks prepared	
April 9	48.00	by me from cancelled checks examined	
April 15	475.00	on the account of S. H. Terrell, Special,	
April 17	25.00	in the American National Bank.	
April 19	34.00	Q. Who did you get the figures from?	
May 8, Numbers Printing Co.	100.00	A. The figures in the column on this	
May 9, Covert Auto Co.....	100.00	statement, shown as "Personal Use" and	
May 11, Covert Auto Co.....	28.85	"State Use," the items therein are not	
May 13, Harry Golden	80.95	in my writing, but Mr. Carter's.	
May 14, Calcasieu Lbr. Co....	372.00	Q. Who told you what they were	
May 27, H. Bresler	50.00	used for?	
June 8, Covert Auto Co.....	100.00	A. Mr. Terrell stated that all checks	
June 25, Mc Account	35.00	drawn on this account were for personal	
July 5, Harry Golden	65.00	use until the checks to the tax col-	
July 6, Robbins & Robbins...	60.61	lectors were issued which were paid be-	
July 8, Covert Auto Company	100.00	ginning January 7, 1930.	
July 9, Pearl King	10.00	Whereupon, the instrument was of-	
		fered in evidence, and is as follows:	

AMERICAN NATIONAL BANK, AUSTIN, TEXAS.

S. H. TERRELL, "SPECIAL," ACCOUNT,
WITHDRAWALS

PREPARED FROM CANCELLED CHECKS

Date.	Payee.	No.	Check Amounts.	Purpose	
				Personal Use.	State Use.
July, 1928—					
18—	W. C. Lloyd	1	\$ 4.50	\$ 4.50	
19—	University Market	2	11.56	11.56	
19—	Swann-Schulle Co.	3	30.00	30.00	
19—	Grayburg Oil Co.	4	7.14	7.14	
19—	Severn Bros.	5	7.55	7.55	
19—	Robt. B. Gragg, Sec.	6	3.75	3.75	
19—	Mrs. S. H. Terrell		5.00	5.00	
19—	Maverick Cafe		5.00	5.00	
19—	Jno. Payne		1.00	1.00	
20—	Maverick Cafe		5.00	5.00	
21—	Harrells		4.75	4.75	
23—	Maverick Cafe		3.50	3.50	
23—	Aetna Life Ins. Co.	12	8.29	8.29	
23—	Mrs. S. H. Terrell	15	25.00	25.00	
23—	Mrs. S. H. Terrell	16	20.00	20.00	
23—	Paul O. Simms Co.	17	106.67	106.67	
23—	Cash		4.00	4.00	
23—	Hirshfeld & Anderson		10.00	10.00	
24—	Maverick Cafe		5.00	5.00	
25—	Fromme		5.00	5.00	
26—	Great So. Life Ins Co.	21	14.96	14.96	
26—	E. A. Reno		5.00	5.00	
26—	Capitol Chevrolet Co.		12.75	12.75	
27—	Dallas Morning News	24	2.34	2.34	
27—	New & Kinser		5.00	5.00	
28—	Cash		6.00	6.00	
28—	Grace Clark		4.50	4.50	
31—	Scott Hotel		10.00	10.00	
August—					
6—	University Market	26	12.85	12.85	
6—	Nick Linz	27	10.25	10.25	
6—	Swann-Schulle Co.	28	30.00	30.00	
6—	Grayburg Oil Co.	29	10.10	10.10	
6—	Covert Auto Co.	30	50.00	50.00	
6—	W. A. Achilles & Co.	31	30.00	30.00	
8—	Covert Auto Co.	32	62.62	62.62	
13—	N. W. Nat'l Life Ins Co.	33	44.80	44.80	
13—	Carl H. Mueller	34	13.50	13.50	
13—	Severn Bros.	35	7.11	7.11	
13—	Paul O. Simms Co.	36	22.64	22.64	
14—	Robt. B. Gragg, Sec.	37	20.25	20.25	
16—	Minn. Mut. Life Ins. Company	38	14.92	14.92	
15—	Barker Motor Co.		11.56	11.56	
22—	Harry Bresler	40	200.00	200.00	
24—	Walter Tips Co.		47.47	47.47	
September—					
1—	Mrs. S. H. Terrell		20.00	20.00	
1—	Southern Messenger	42	25.00	25.00	
4—	K. C. Life Ins. Co.	43	22.60	22.60	
8—	Harry Golden		72.00	72.00	
10—	Hicks Rubber Co.		47.50	47.50	
10—	George Bendetti		11.30	11.30	
13—	Robert B. Gragg		11.00	11.00	

Date.	Payee.	No.	Check Amounts.	Purpose	
				Personal Use.	State Use.
September—					
19—	Ross R. Cole	49	7.50	7.50	.....
19—	W. C. T. U.	50	5.00	5.00	.....
24—	Cash .....	..	2.00	2.00	.....
24—	Exide	52	18.38	18.38	.....
24—	Biggs & Co.	53	4.75	4.75	.....
28—	Cash .....	..	3.00	3.00	.....
October—					
4—	J. R. Reed Music Co.	55	20.53	20.53	.....
6—	Covert Auto Co.	56	50.00	50.00	.....
11—	Covert Auto Co.	57	50.00	50.00	.....
15—	Consumers' Home Ice	58	3.90	3.90	.....
16—	Grayburg Oil Co.	59	7.58	7.58	.....
17—	Aetna Life Ins. Co.	60	8.29	8.29	.....
23—	University Market	61	5.15	5.15	.....
17—	McGinnis & Grimes .....	..	3.00	3.00	.....
27—	New & Kinser .....	..	7.50	7.50	.....
November—					
5—	Covert Auto Co.	64	50.00	50.00	.....
10—	Covert Auto Co.	65	50.00	50.00	.....
13—	Capital Chev. Co. ....	..	4.90	4.90	.....
15—	N. W. Nat'l Life Ins. Co.	67	44.80	44.80	.....
19—	Robt. B. Gragg, Sec.	68	2.75	2.75	.....
December—					
5—	Covert Auto Co.	69	50.00	50.00	.....
6—	K. C. Life Ins. Co.	70	22.60	22.60	.....
15—	W. C. Lloyd Dairy	72	13.50	13.50	.....
18—	Robt. B. Gragg, Sec.	73	3.75	3.75	.....
22—	Joe Koen & Sons .....	..	125.00	125.00	.....
24—	Joe Finley, Jr.	74	5.00	5.00	.....
January, 1929—					
5—	J. R. Reed Mus. Co.	75	20.93	20.93	.....
5—	Swann-Schulle F. Co.	76	30.00	30.00	.....
5—	Joe Koen & Son	77	35.00	35.00	.....
5—	University Market	78	20.65	20.65	.....
5—	Kelly Smith	79	20.75	20.75	.....
5—	Grayburg Oil Co.	80	13.65	13.65	.....
5—	Louise Shop	81	5.00	5.00	.....
5—	Marie Antoinette	82	5.95	5.95	.....
7—	C. P. Randolph, Sec.	83	4.50	4.50	.....
7—	Frank L. Jewett, Sec.	84	5.00	5.00	.....
8—	Austin Gas Co.	85	7.66	7.66	.....
8—	Water, Light and Power Department..	86	6.41	6.41	.....
14—	S. W. Bell Tel. Co.	87	2.90	2.90	.....
24—	Burnette's Serv. Sta. ....	..	1.40	1.40	.....
February—					
2—	E. J. Martin	89	100.00	100.00	.....
4—	E. J. Martin	90	50.00	50.00	.....
7—	W. C. Lloyd	91	13.95	13.95	.....
7—	C. A. Dahlich	92	7.80	7.80	.....
7—	Grt. Sou. Life Ins. Co.	93	14.96	14.96	.....
7—	N. W. Nat'l Ins. Co.	94	44.80	44.80	.....
10—	Minn. Mut. Life Ins. Co.	95	8.70	8.70	.....
9—	C. P. Randolph, Sec.	96	4.00	4.00	.....
11—	Austin Gas Co.	97	7.48	7.48	.....
11—	Water, Light and Power Department..	98	5.12	5.12	.....
11—	S. W. Bell Tel. Co.	99	2.00	2.00	.....
14—	E. J. Martin, $\frac{1}{2}$ Feb. sal. W. C. Rucker.	100	83.33	83.33	.....

Date.	Payee.	No.	Check Amounts.	Purpose—	
				Personal Use.	State Use.
February—					
16—	Robt. B. Gragg, Sec.	101	3.75	3.75	.....
25—	Cash	..	1.00	1.00	.....
25—	Maverick Cafe	..	5.00	5.00	.....
26—	Cash	..	5.00	5.00	.....
27—	Maverick Cafe	..	5.00	5.00	.....
March—					
4—	F. L. Jewett, Sec.	106	5.00	5.00	.....
5—	J. R. Reed Mus. Co.	107	29.75	29.75	.....
5—	K. C. Life Ins. Co.	108	22.60	22.60	.....
9—	E. J. Martin	111	15.00	15.00	.....
7—	Dr. R. G. Hardy	..	15.00	15.00	.....
9—	Covert Auto Co.	..	37.20	37.20	.....
15—	Globe Life Ins. Co.	112	31.23	31.23	.....
15—	Grt. So. Life Ins. Co.	113	14.22	14.22	.....
23—	5th & Brazos Service Station	..	7.60	7.60	.....
27—	Hirshfeld & Anderson	..	6.00	6.00	.....
April—					
4—	Baylor College	116	25.00	25.00	.....
5—	Boone Photo Co.	117	14.92	14.92	.....
6—	Miss A. L. Fulton	118	15.00	15.00	.....
8—	E. J. Martin, endorsed: "E. J. Martin, Dep. to Texas Tax Record"	119	150.00	150.00	.....
8—	Hirshfeld & Anderson	120	37.50	37.50	.....
8—	Nick Linz	121	5.00	5.00	.....
8—	Walter Wilcox	122	12.50	12.50	.....
8—	Grayburg Oil Co.	123	9.50	9.50	.....
9—	Water, Light & Power Dept.	124	5.00	5.00	.....
9—	Austin Gas Co.	125	5.50	5.50	.....
9—	C. P. Randolph, Secy.	126	4.00	4.00	.....
16—	Cash	..	5.00	5.00	.....
16—	S. W. Bell Tel. Co.	128	2.30	2.30	.....
18—	Looke's	..	5.00	5.00	.....
23—	O. M. Justiss	130	17.45	17.45	.....
27—	Kiwanis Club of Austin	131	5.25	5.25	.....
27—	I. O. O. F. No. 23 of Austin	132	2.00	2.00	.....
27—	E. M. Scarbrough & Sons	..	2.00	2.00	.....
27—	Carl Mueller	..	10.00	10.00	.....
29—	Cash	..	5.00	5.00	.....
30—	S. H. Terrell, Comptroller	106	17.00	17.00	.....
May—					
1—	Mrs. A. L. Fulton	137	15.00	15.00	.....
1—	Cash	138	5.00	5.00	.....
14—	Northwestern Nat'l Life Ins.	139	44.80	44.80	.....
14—	Great So. Life Ins. Co.	140	14.96	14.96	.....
20—	Robt. Gragg, Secy.	141	2.75	2.75	.....
June—					
18—	Maverick Cafe	142	37.50	37.50	.....
July—					
13—	Nick Linz	..	55.00	55.00	.....
13—	Grayburg Oil Co.	143	19.70	19.70	.....
13—	Gulf Ref. Co.	144	22.18	22.18	.....
15—	Kiwanis Club	146	5.50	5.50	.....
15—	Capitol Lodge 23, I. O. O. F.	147	2.00	2.00	.....
18—	J. R. Reed Music Co.	149	21.73	21.73	.....
20—	Austin Associated Adv.	150	2.10	2.10	.....
22—	Robt. B. Gragg	151	2.75	2.75	.....
30—	Rice Hotel	..	3.50	3.50	.....

Date.	Payee.	No.	Check Amounts.	Purpose	
				Personal Use.	State Use.
August—					
1—	Yourselves for Credit Tax Record Co..	153	350.00	350.00	.....
3—	Scott Hotel of Dallas.....	..	25.00	25.00	.....
8—	University Market	155	30.45	30.45	.....
13—	Great So. Life Ins. Co.	156	14.96	14.96	.....
14—	Gulf Refining Co.	157	20.06	20.06	.....
19—	W. Wilcox	158	20.00	20.00	.....
24—	Cash .....	..	5.00	5.00	.....
26—	Speedway Drug .....	..	1.00	1.00	.....
29—	Cash .....	..	50.00	50.00	.....
29—	Maverick Cafe .....	..	25.00	25.00	.....
September—					
3—	Cash	164	30.00	30.00	.....
9—	W. C. Lloyd Dairy.....	165	36.00	36.00	.....
7—	Grayburg Oil Co.	166	15.30	15.30	.....
7—	Nick Linz	167	7.25	7.25	.....
7—	J. R. Reed Music Co.	168	22.00	22.00	.....
7—	J. R. Reed Music Co.	169	7.70	7.70	.....
7—	University Market	170	17.25	17.25	.....
7—	Wallace Wilcox	171	15.00	15.00	.....
7—	Swann-Schulle Furn. Co.	172	15.00	15.00	.....
9—	Looke's .....	..	5.00	5.00	.....
10—	E. M. Scarbrough Co.	174	40.00	40.00	.....
10—	Greenwood Drug Co.	175	25.00	25.00	.....
10—	S. H. Terrell, Comp.	176	10.00	10.00	.....
13—	Kansas City Life Ins. Co.	177	22.60	22.60	.....
14—	Looke's Cafe .....	..	5.00	5.00	.....
16—	Cash .....	..	3.00	3.00	.....
17—	Cash	179	6.00	6.00	.....
17—	Cash .....	..	3.50	3.50	.....
18—	Maverick Cafe .....	..	3.00	3.00	.....
19—	Robt B. Gragg (Cleared Aug. 27, 1929)	159	2.75	2.75	.....
23—	Cash .....	..	5.00	5.00	.....
26—	Looke's .....	..	5.00	5.00	.....
26—	S. H. Terrell, Comp.	185	12.00	12.00	.....
27—	Looke's .....	..	3.00	3.00	.....
28—	Al Kinser .....	..	5.00	5.00	.....
23—	Robt. B. Gragg	183	2.75	2.75	.....
30—	E. M. Scarbrough .....	..	2.00	2.00	.....
October—					
11—	Covert Auto Co. ....	..	41.35	41.35	.....
11—	J. G. Miller & Sons.....	191	85.00	85.00	.....
16—	Harry Bresler	194	50.00	50.00	.....
17—	Mrs. S. H. Terrell.....	..	30.00	30.00	.....
17—	Cash .....	..	50.00	50.00	.....
28—	Cash .....	..	5.00	5.00	.....
29—	S. H. Terrell, Comp.	196	20.00	20.00	.....
29—	(End. by Geo. Wesley) .....	..	3.00	3.00	.....
29—	Austin Mutual Life Ins. Co.	198	7.50	7.50	.....
29—	(End. by Robt. Mueller Co.) .....	..	14.00	14.00	.....
30—	Kiwanis Club	200	5.00	5.00	.....
31—	W. R. Long, Auditor (7 ticket B. & T. Ind. Athletic Council)	201	21.00	21.00	.....
November—					
2—	Great So. Life Ins. Co.	202	14.96	14.96	.....
5—	Grayburg Oil Co.	203	10.00	10.00	.....
7—	W. A. Achilles & Co.	204	40.00	40.00	.....
7—	Marie Antoinette	205	75.00	75.00	.....
8—	Southwestern Radio	206	115.60	115.60	.....

Date.	Payee.	No.	Check Amounts.	Purpose—	
				Personal Use.	State Use.
November—					
14—	Tex. Pub. Serv. Co.	207	3.73	3.73	.....
14—	W., L. & P. Dept. of Austin	208	5.45	5.45	.....
14—	S. W. Bell Tel. Co.	209	2.00	2.00	.....
14—	N. W. Nat. Life Ins. Co.	210	44.80	44.80	.....
14—	Aetna Life Ins. Co.	211	17.45	17.45	.....
December—					
17—	E. M. Scarbrough	212	50.00	50.00	.....
17—	Gulf Ref. Co.	213	16.62	16.62	.....
17—	Mrs. S. H. Terrell	214	15.00	15.00	.....
17—	S. H. Terrell, Compt.	..	30.00	30.00	.....
18—	Maverick Cafe	..	15.00	15.00	.....
19—	Luedecke-Moffatt Co.	217	15.00	15.00	.....
20—	Dr. Thomas McCrummon	218	17.00	17.00	.....
20—	Swann-Schulle Furn. Co.	219	7.40	7.40	.....
20—	Mrs. S. H. Terrell	220	10.00	10.00	.....
22—	Cash	..	50.00	50.00	.....
23—	Maverick Cafe	..	30.00	30.00	.....
20—	R. C. Bearden	221	18.72	18.72	.....
January, 1930—					
2—	Great Southern Life Ins. Co.	224	14.22	14.22	.....
6—	J. M. Edwards	225	41.50	41.50	.....
7—	Mrs. Pearl Key	226	27.10	27.10	.....
9—	Covert Auto Co.	227	100.00	100.00	.....
7—	Co. Tax Coll., Hutchinson county	228	12.52		\$ 12.52
7—	Co. Tax Coll., Bailey county	229	7.50	.....	7.50
7—	Co. Tax Coll., Dallam county	230	7.50	.....	7.50
7—	Co. Tax. Coll., Swisher county	231	7.50	.....	7.50
7—	Co. Tax Coll., Deaf Smith county	233	7.50	.....	7.50
7—	Co. Tax. Coll., Ochiltree county	234	7.50	.....	7.50
7—	Co. Tax Coll., Hansford county	235	7.50	.....	7.50
7—	Co. Tax Coll., Carson county	236	7.50	.....	7.50
7—	Co. Tax Coll., Wheeler county	237	15.00	.....	15.00
7—	Co. Tax Coll., Oldham county	238	7.50	.....	7.50
7—	Co. Tax Coll., Swisher county	239	7.50	.....	7.50
7—	Co. Tax Coll., Gray county	240	22.50	.....	22.50
7—	Co. Tax Coll., Hale county	242	22.50	.....	22.50
9—	Aetna Life Ins. Co.	243	8.29	8.29	.....
9—	Drs. Watt & Watt	244	3.00	3.00	.....
9—	Grayburg Oil Co.	245	19.29	19.29	.....
9—	Community Chest	246	5.00	5.00	.....
9—	Capitol Printing Company	247	5.00	5.00	.....
10—	University Market	248	17.98	17.98	.....
10—	J. C. Bryant Creamery Co.	249	11.78	11.78	.....
Forward			\$5,230.62	\$5,090.60	\$140.02
January, 1930—					
10—	Griffith Drug Co.	250	30.00	30.00	.....
10—	Joe Koen & Sons	251	35.00	35.00	.....
10—	Nick Linz	252	35.00	35.00	.....
10—	Robinson & Robinson	253	75.00	75.00	.....
15—	Gulf Refining Co.	254	25.79	25.79	.....
17—	J. R. Williams	..	122.46	122.46	.....
22—	Mrs. S. H. Terrell	256	200.00	200.00	.....
24—	Co. Tax Coll., Gray county	258	15.00	.....	15.00
Total			\$5,768.87	\$5,613.85	\$155.02

All cancelled checks compared with bank statements.

Recapitulation.

Personal use	\$5,613.85
State use	155.02
Total checks	\$5,768.87
February, 1930—	
10—Balance	\$ 93.98
Total deposits	5,862.85
Total checks	5,768.87
Balances	\$ 93.98

Mr. McGill: That is all. You may have the witness for cross examination.

Mr. McGregor: That all depends on the attitude of the House.

Mr. Petsch: Mr. Chairman, I would like to ascertain from counsel for the respondent, Mr. Terrell, whether or not they want to ask this witness any questions. The reason for that is that this witness wants to go back to Washington and would like to terminate his contract with the State of Texas, and for that reason as he has important engagements in Washington, if there is to be no cross examination, he would like to return to Washington tonight, or leave tomorrow.

Mr. McGregor: Our attitude in that matter would be determined by the action of the House as to when it will resume this hearing, and rather than have another hearing this afternoon, or tonight, we will pass the examination of this witness and let him go if the House is going to adjourn until Monday. If the House is going to have a night session, tonight, we might want to cross examine this witness, but as I stated before, if the House adjourns until Monday, we will not desire to cross examine this witness and as far as we are concerned he may return to Washington.

Mr. McCombs: I move that the House— I move that the Committee rise, report progress and ask leave of the House to sit again tomorrow at 9 o'clock—

Mr. McGregor: If the House adjourns until Monday, we will waive his examination—

A Member: Mr. Chairman, I would like to—

The Chairman: This motion is not debatable—

Mr. Forbes: Mr. Chairman—

The Chairman: The gentleman from Parker— on a point of personal privilege—

Mr. Forbes: Mr. Speaker, Ladies and Gentlemen of the House:

If we adjourn until tomorrow at 9 o'clock, we will not have a quorum.

You would have to get the members, some of the members from the churches of this town. You would have to take them out of the churches and force them to serve here against their religious beliefs. To me to thus desecrate the Sabbath day would be unfair— I just simply would not do it— it would be impossible for me to do that— It would be unconstitutional. The first statement in the Constitution is imploring the blessings of Almighty God.

Mr. Purl: Will the gentleman yield—

The Chairman: Does the gentleman from Parker yield?

Mr. Forbes: Yes, sir.

Mr. Purl: We draw pay for working tomorrow, don't we?

Mr. Forbes: Yes, sir, we are here on expense and the salary which we draw does not much more than pay our expenses—

Mr. McCombs: Mr. Chairman, will the gentleman yield?

The Chairman: Does the gentleman yield?

Mr. Forbes: I decline to yield—

The Chairman: The gentleman declines to yield—

Mr. Forbes: I want to say to you members here that I have been as faithful here in attending the sessions of this House as any member in it. I do not think that I have ever missed a roll call; we have been in session for almost seven months, and I have tried to be at my desk at every session of this House and there are very few members who have missed as few roll calls as I have. I love every member of this House— I love you as brothers, and you have been very gracious to me, but men, please don't force or try to force me to do something which I cannot do. The fact is, I cannot perform that service tomorrow. If you force this matter and decide to come back here tomorrow morning, my resignation will be in the hands of the Governor before daylight tomorrow morning. I just cannot continue to serve if you attempt to force this service on me.

A Member: What arrangement could be made about excusing Brother Forbes tomorrow?

Mr. Forbes: I do not want the rest of you to work tomorrow and desecrate the Sabbath day. I want to pray for you; I love every one of you, and I do not want you to do something that I would not do myself.

Whereupon the motion to rise, report progress and ask permission of the House to recess until Sunday morning at 9 o'clock was withdrawn.

Thereupon, motion by the gentleman from Harris was made that the Committee rise, report progress and ask leave of the House to adjourn until Monday morning at 10 o'clock.

The Chairman: All in favor of the Committee rising, reporting progress and asking permission of the House to adjourn until next Monday morning at 10 o'clock will say "aye"; those opposed "no."

Thereupon the question was taken and the motion prevailed.

FIFTH DAY.

(Tuesday, February 25, 1930.)

The House met at 9:30 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Barron.

The roll was called and developed the fact that there was not a quorum present.

Mr. Barnett moved a call of the House for the purpose of securing a quorum, and the call was duly ordered.

The Speaker then directed the Doorkeeper to close the main entrance to the Hall and instructed the Sergeant-at-Arms to lock all other doors leading from the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

On motion of Mr. Barnett, the Sergeant-at-Arms was instructed to bring in all absent members within the city who are not ill.

The roll was again called, and the following members were present:

Mr. Speaker.	Bateman.
Acker.	Beck.
Ackerman.	Bond.
Adkins.	Bounds.
Albritton.	Bradley.
Allred.	Brice.
Anderson.	Brooks.
Baker.	Carpenter.
Baldwin.	Chastain.
Barnett.	Coltrin.

Conway.	McCombs.
Cox of Lamar.	McDonald.
Cox of Limestone.	McGill.
Davis.	Mehl.
DeWolfe.	Metcalfe.
Dunlap.	Moore.
Enderby.	Morse.
Eickenroht.	Mosely.
Farrar.	Mullally.
Finn.	Negley.
Finlay.	Nicholson.
Forbes.	Olsen.
Gilbert.	Palmer.
Giles.	Patterson.
Graves	Pavlica.
of Williamson.	Petsch.
Graves of Erath.	Pool.
Hardy.	Prendergast.
Harding.	Purl.
Harman.	Quinn.
Harper.	Ray.
Harrison.	Reader.
Heaton.	Renfro.
Hefley.	Richardson.
Hines.	Riley.
Hogg.	Rogers.
Holder.	Sanders.
Hopkins.	Savage.
Jenkins.	Shaver.
Johnson	Shelton.
of Dallam.	Simmons.
Johnson	Sinks.
of Dimmit.	Snelgrove.
Johnson of Smith.	Stephens.
Johnson of Scurry.	Stevenson.
Jones.	Storey.
Justiss.	Tarwater.
Kayton.	Terrell.
Keeton.	Tillotson.
Keller.	Turner.
Kemble.	Van Zandt.
Kennedy.	Veatch.
King.	Waddell.
Kinnear.	Wallace.
Lee.	Webb.
Lemens.	West.
Long of Houston.	Wiggs.
Loy.	Williams
Magee.	of Sabine.
Mankin.	Williams
Marks.	of Travis.
Mauritz.	Woodruff.
Maynard.	Young.

Absent.

Gates.	Pope of Jones.
Hornaday.	Pope of Nueces.
Kenyon.	Reid.
Land.	Thompson.
Long of Wichita.	Warwick.
Martin.	Williams
O'Neill.	of Hardin.

Absent—Excused.

Avis.	Ewing.
Duvall.	Fuchs.